# REPORT

OF THE

# BOMBAY FOREST COMMISSION.

## VOLUME IV.

## MISCELLANEOUS PAPERS AND STATISTICS.

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# CONTENTS.


| Subject. | Pages. |
|---|---|
| Prècis of correspondence and orders relating to Forest Administration in Thána supplied to the Commission by Government ... ... ... ... | 1—21 |
| Memorial of certain proprietors of freehold villages in Sálsette .. ... | 22—24 |
| Memorial of Mr. Chintáman Sakhárám Karandikar, Pleader, District Court, Thána, and three others ... ... ... ... ... ... | 25—50 |
| Memorial to His Excellency the Right Honourable the Marquis of Ripon, K.G., G.M.S.I. and G.M.I.E., Viceroy and Governor-General of India, of the inhabitants of Thána District ... ... ... ... ... ... | 51—61 |
| Mr. Loch's report No. 1713, dated 31st March 1885, on the same memorial to the Viceroy ... ... ... ... ... ... ... | 62—72 |
| Memorial of the inhabitants of the Kolába District (excluding Panvel *táluka*) ... | 73—75 |
| Memorial of the inhabitants of Uran *peta* ... ... ... ... | 76 |
| Memorial to His Excellency the Right Honourable Sir James Fergusson, Bart., G.C.I.E., Governor of Bombay, of the inhabitants of Kolába with accompaniments. | 77—87 |
| Report of the Forest Conference assembled at Thána in 1882... ... ... | 88—101 |
| Do. do. in 1883... ... ... | 102—104 |
| Government Resolution No. 7075, dated 5th October 1886, with Mr. Mackenzie's letter No. 1567 of 1884, and Mr. Naylor's report No. 1223 of 1884 ... ... | 105—113 |
| Mr. Ozanne's note on garden cultivation in the Máhim and Bassein *tálukás* of the Thána District ... ... ... ... ... ... | 114—122 |
| Mr. Ebden's memorandum, containing a prècis of correspondence regarding the forest rights of occupants and the Government in the different *tálukás* of the Thána Collectorate ... ... ... ... ... ... | 124—127 |
| Mr. Nairne's memorandum regarding rights to teak and blackwood trees in Government villages and lands in the North Konkan ... ... ... ... | 128—141 |
| Government Resolution No. 7467, dated 15th September 1885, regarding grazing ... | 142 |
| Government Resolution No. 1203, dated 14th February 1883, regarding the privileges in Government forests allowed to the people of the Alibág *táluka* ... ... | 143—145 |
| Government Resolution No. 7579, dated 10th October 1883, on the Forest Settlement of the Panvel *táluka* ... ... ... ... ... ... | 146—149 |
| Government Resolution No. 6331, dated 6th August 1885, on the Forest Settlement and Demarcation of the Panvel *táluka* ... ... ... ... | 150—152 |
| Mr. Sinclair's note on the lands supplying grass to the Bombay market and on hill soils in the Kolába District ... ... ... ... ... | 153—155 |
| Government Resolution No. 3055, dated 16th April 1885, regarding the inquiries made by the Forest Settlement Officer, Kolába, into rights in Protected forests in the Urán *mahál*... ... ... ... ... ... ... | 156 |
| Government Resolution No. 4214, dated 4th June 1883, on the Forest Settlement of Roha *táluka* ... ... ... ... ... ... | 157 |
| Government Resolution No. 4215, dated 4th June 1883, on the Forest Settlement of Mahád *táluka* ... ... ... ... ... .. | 158—159 |
| Government Resolution No. 4217, dated 4th June 1883, on the Forest Settlement of Mángaon *táluka* ... ... ... ... .. ... | 160—161 |
| Government Resolution No. 2988, dated 9th April 1884, on the Forest Demarcation and Settlement of the Sálsette *táluka* ... ... ... ... ... | 162—164 |
| Government Resolution No. 2831, dated 8th April 1885, on the Forest Demarcation and Settlement of the Sálsette *táluka* ... ... ... ... ... | 165—166 |
| Government Resolution No. 5251, dated 1st July 1884, on the Forest Settlement and Demarcation of the Bhivandi *táluka* ... ... .. ... | 167—170 |
| Government Resolution No. 4719, dated 10th June 1885, on the Forest Settlement and Demarcation of the Bhivandi *táluka* ... ... ... ... | 171—172 |
| Government Resolution No. 8018, dated 10th October 1884, on the Forest Demarcation and Settlement of the Karjat *táluka* of the Thána District... ... ... | 173—176 |
| Government Resolution No. 3554, dated 4th May 1885, on the Forest Demarcation in the Mokháda *peta* of the Shaháp ur *táluka* ... ... ... ... | 177—179 |
| Government Resolution No. 3890, dated 14th May 1885, on the Forest Demarcation and Settlement of the Kalyán *táluka* ... ... .. ... | 180—183 |
| Government Resolution No. 5919, dated 22nd July 1885, on the Forest Settlement and Demarcation of the Bassein *táluka* ... ... ... ... ... | 184—188 |
| Government Resolution No. 5880, dated 20th July 1885, regarding arrangements made for improving the system of supplying wood and other forest produce to the residents of the Thána District ... ... ... ... ... | 189—190 |
| Mr. Vidal's Circular, dated 30th October 1885, containing the standing regulations in the matter of forest privileges allowed by Government in the Thána District ... | 191—196 |

| Subject. | Pages. |
|---|---|
| Government Resolution No. 9044, dated 9th November 1885, on the reservation of trees in the Panvel *táluka* ... ... ... ... ... | 197 |
| Government Resolution No. 2345, dated 25th March 1886, on the right to the trees growing on occupied *varkas* land in the Umbargaon *mahál* of the Dahánu *táluka* ... | 198 |
| Government Resolution No. 555, dated 23rd January 1886, granting permission to rayats to lop *nána, dhávda, ain* and *bonda* trees for *ráb* in the Protected forests of all the unsettled *tálukás* of the Thána District ... ... ... | 199 |
| Rules issued by the Collector of Thána under Section 44 of the Land Revenue Code for the regulation of privileges in waste lands excluded from forests ... ... | 200—201 |
| Exhibits from the Pendse case and the memorial to the Viceroy of the inhabitants of Thána referred to in Vol. I., Chapter VI. ... ... ... ... | 202—219 |
| Statistics ... ... ... ... ... ... ... | 220—236 |

# MISCELLANEOUS PAPERS.

## Pre'cis of Correspondence and Orders relating to Forest Administration in Tha'na.

The legal position of Government in respect of forests and rights to trees has been succinctly stated in a memorandum by the Remembrancer of Legal Affairs, printed at pages 93—98 of the Compilation of General Rules in force in the Revenue Department under the Government of Bombay, from which the following extracts are taken:—

"The great principle which is recognized by the Courts in all questions as to rights to trees is that the proprietary right to trees follows the property in the soil. Hence wherever it can be shown that land is the property of Government the immediate inference is drawn that in the absence of any other circumstance which creates a proprietary right in the trees in the land-holder the trees belong to Government."

"It is now clearly established that waste lands under the ancient Hindu and Mahomedan laws as well as under the British law now in force in this Presidency belong to Government. This was clearly laid down in the Kánara Land Assessment Case (12 Bom. H. C. Rep. 57-9 App.), in Pendse's Case (High Court's Printed Judgments for 1879, page 275), and in the Kánara Forest Case (Indian Law Reports 3, Bom. 583-4, 542 and 546-7)."

"The judgment of the High Court in this case (Vásudeo Bhásker Pendse *vs.* the Collector of Thána) was limited to a consideration of the respective rights of Government and the plaintiff in his *varkas* land. *Varkas* is defined in the judgment as being 'land on which, in accordance with the mode of cultivation in use in the Konkan, the cultivators cut grass, brushwood and branches of trees to be burned as manure (*ráb*) on their rice fields. This, and not cultivation, is the use to which *varkas* land is ordinarily appropriated; but patches of such land are from time to time used for raising scanty crops of inferior grain.' The important points determined with respect to such lands are—(1) that *varkas* lands must be regarded to all intents and purposes as waste lands, and therefore according to the settled law concerning waste lands belong to the State; (2) that neither the use, with the acquiescense of Government, of defined portions of such lands for obtaining manure, nor the occasional and sporadic cultivation for several generations of patches of such land can be held to create a proprietary title."

"Again in Vásudeo Bhásker Pendse *vs.* the Collector of Thána the same Judge* (Kemball, J. concurring) said: 'It is clear upon authority that if the soil be the property of another, the plaintiff cannot, either by custom or prescription, acquire an unlimited right to cut down trees growing upon that soil.' 'A *profit a prendre* in another's soil cannot be claimed by custom, however ancient, uniform and clear the exercise of that custom may have been,' and 'an unlimited *profit a prendre* on another's soil cannot be claimed by prescription.'"

*Hon. M. Melvill.

"In Vásudeo Bhásker Pendse *vs.* the Collector of Thána, when it had been held in the first place that the *varkas* lands in dispute were the property of Government, and therefore that the trees standing on them were *primâ facie* also the property of Government, the plaintiff endeavoured to establish his title in virtue of 'special grants and recognitions made by Government from time to time.' The decisions recorded by the Court upon the various points thus raised are only applicable to the district of Thána, and some of them, perhaps, to certain *tálukás* only of that district, but as indicating the nature of the questions that arise in such cases it may be useful briefly to state them here. The Court held that (1) in the Thána district, previous to the introduction of the Revenue Survey,

(*a*) the felling of teak trees was universally prohibited and the right of Government to do this was never questioned;

(*b*) the right to all other trees standing upon or to be afterwards planted upon their own lands was conceded to the occupants;

(*c*) *varkas* lands were treated as Government waste and not as private lands;

(*d*) the right of cultivators to take *ráb* from *varkas* lands for manuring their rice fields was recognized; but

(*e*) they were prohibited from felling trees of certain specified descriptions, although permitted, as a favour, to cut common wood for domestic use but not for trading purposes."

2. In the Pendse Case, as in all the other cases cited by Mr. Naylor, the claim made was to trees standing on certain areas alleged to be in the occupation of the claimant, although part of the land had not been measured into survey numbers. It does not appear that any attempt has ever been made to establish by suit the existence of usufructuary rights in forest areas which have admittedly not been appropriated by or assigned to individuals either in full property or for specified uses; but the decision regarding rights in *varkas* land not given out on the survey tenure applies *a fortiori* to such areas.

3. Little information is forthcoming regarding the forest administration of former Governments. The subject was probably considered of little importance since the produce of inland forest is of little value without means of export. But there is evidence that such revenue as was possible at the time was derived from the forests. Regulation I. of 1808 shows the following amongst the taxes levied by the Peshva in the *táluka* of Sálsette :—

*Section IX.*—"To which they (*i. e.* the Marátha Government) added some new levies under the heads of *vun charray*, or for the grazing of cattle", &c.

*Section XVI.*—"There was also a duty raised on the firewood growing on the hills, consisting first of *rendvun*, *i. e.*, the farm of the privilege of selling wood on the hill of Vanoor.....; and *secondly*, of *phantay bharray*, being a commutation in money for a certain portion of wood which the farmer exacted from the Kunbis, or obliged them to furnish and deliver to him for his own family use; thirdly, *van mukta*, or the general duty on cutting wood from the hills, which was also leased out to a farmer; and fourthly, *dully*, being the rent of spots of ground on which the hill people raise small crops of *náchni*, gram, and other dry and coarse grains, and some vegetables."

*Section LIV.*—"*First.*—The proceedings on the above-mentioned occasion leading to the consideration of the operation of the farm for *run charráy* or pasturage, being one of the old taxes ordered to be reserved, as noticed in clause fifth, Section XXX., it was found to consist in a toll collected at the rate of half a rupee on every unhired bullock, he or she-buffaloes, or horses and of twenty-eight reas (of which four hundred make a rupee) on every hired bullock, &c., sent across from Bombay to graze in the divisions of Bándra and Kurla; restrictions, which appearing to militate against the spirit of the system for the establishment of a free intercourse between the islands, it was ordered on the 12th July 1805 to be abolished as were, at the same time, two farms in the similarly reserved department of *vun mukta*, or for cutting wood, the one at Tulsi in the district of Málád, and the other at Yeur in that of Thána, of the former of which the following are the details :—

*Second.*—All persons cutting *onda*, or firewood, for sale to pay a duty of two rupees and a half per thousand.

*Third.*—Firewood brought in carts for sale to pay fifty reas per each cart.

*Fourth.*—*Tatta* sticks brought from the hills for sale to pay a duty of eight reas for each bundle.

*Fifth.*—Bamboos do. do. do. do.

*Sixth.*—Charcoal brought from the hills for sale to pay a duty of twelve reas for each load.

*Seventh.*—Firewood brought from the hills for sale to pay a duty of two reas for the quantity on each person's head.

*Eighth.*—Every large bundle of crooked timber brought from the hills for sale to pay twelve reas each.

*Ninth.*—Firewood brought for sale upon the backs of asses to pay a duty of twenty-four reas per each load.

*Tenth.*—No duty to be collected from the inhabitants who may bring firewood *tattás*, bamboos, &c., from the jungle for their private use.

*Eleventh.*—No *onda*, or branches, to be lopped from *khyree* trees by the farmer or any body else, without the permission of the Collector.

*Twelfth.*—No large timber to be felled of the description of teakwood, blackwood, or *khyree*, by the farmer or any other person, without the permission of the Collector, and any man or woman therein detected to be fined fifty rupees.

*Thirteenth.*—No duty to be collected from the proprietors of '*sorrotore*' trees felling their own, and carrying the same for sale to Bombay.

*Fourteenth.*—The conditions of the other farm, for cutting wood and making charcoal within the limits of Yeur in the district of Thána, were to the like purport, and both being deemed more burthensome on general industry than was likely to be compensated by the small revenue they produced, they were, as above mentioned, ordered to be discontinued from the date already specified."

There is evidence that similar taxes were levied in other parts of the Thána District as well as in other districts under the Marátha Government. The accounts produced in the Pedse Case show that 'Kolai' which was defined* by Mr. Davidson, Assistant Collector, in 1838 as "a payment for the privilege of cutting wood in the forests" and stated to have been farmed, and which appears to be identical with the "Van Mukta," was levied in the Khálápur *peta* by the Peshva's Government, and the Collectors of Thána and Ratnágiri reported† in 1850 that taxes of the nature of a seignorage were levied even in *khoti* villages, and that the records of the former Government showed that timber was taken as required by it from any part of the country.

*Report No. 1455, dated 31st October 1838.

†Thána No. 489, dated 5th October 1850; Ratnágiri No. 1747, dated 16th October 1850.

4. It was about the year 1837 that Government began to see the necessity of introducing a system of forest conservation in the Thána District. After some correspondence

the Revenue Commissioner was, in Government letter No. 2073, dated 1st June 1838, requested "to direct the Collector to instruct such of his assistants as may be on deputation in the teak districts to enquire and report the former and present extent of teak forests, when and under what systems the growth of timber was most abundant, and how and under what circumstances it has become scarce." In a subsequent letter No. 3288, dated 31st August 1838, the Revenue Commissioner was directed to state "whether it was in the power of Government to prevent the cutting of timber in the forests by individuals, and to take the conservation of forests into its own hands." The reports received in reply to the above showed that "under the Peshva's Government, there were orders in some districts forbidding the cutting of particular sorts of wood under a certain size and age," whereas subsequently under the British Government any tree, whether young or old, was allowed to be cut down on payment of a tax called *kolái*. The result of this system was stated to be that "the forests have receded considerably inland owing to the large export trade that has been for a series of years carried on, and that in easy and accessible parts the timber has much decreased," and it was suggested that the prohibitory orders in force at the time of the Peshva "might be renewed and improved on, and an out-look kept at the bunders and *chavkis* then in existence."

Orders on the reports were communicated to the Revenue Commissioner with Government letter No. 775, dated 4th March 1839, in which the Governor in Council expressed regret that "the prohibition against the cutting of teak timber which existed during the Peshva's time was publicly[1] removed on the accession of the British Government," and further observed as follows :—

> "The principal teak forests are, it is understood, in the northern part of this Collectorate. On the timber cut on them a fee was levied under the name of *kolái*, which appears to have partaken of the nature of customs and of an exaction for permission to cut down the trees.
>
> "The Governor in Council is particularly desirous to preserve these forests, and the local authorities should therefore pay immediate attention to this subject. I am directed also to request that you will call upon the Collector of Thána and of the customs in Gujarát to communicate freely on the subject, and to forward to Government any suggestions which they may offer with a specific plan from yourself for giving effect to the object which is so much desired.
>
> "The right of Government to prohibit altogether the felling of the teak should be ascertained and next the necessity of Government resorting to this measure."

In reply under No. 499 of the 15th April 1839 the Collector wrote :—

> "The right to restrict the cutting of the more valuable kinds of timber seems to have been clearly recognized and acted on by the former Government, and although from indifference it may have been neglected occasionally by them, and universally by us, it may undoubtedly at any time be re-established."

The Collector proposed "to preserve as public forests tracts of country ascertained to be favourable to growth of timber and to prohibit entirely the cutting of timber within these" and went on to say,—"In all other places the right of cutting might be left free, or if it be thought desirable in these too to restrict it as regards the best species of timber, it might be granted on permits."

Mr. Pelly, Collector of Customs in Gujarát and Konkan, wrote (Letter No. 338, dated 3rd June 1839) as follows :—

> "When the *tálukás* extending from Funnel Hill or Karnála to Málvan were consigned to my charge in 1817-18, after their capture from the Marátha, I found the title of the sovereign authority to all teak forests clear and unquestioned; no one had a right according to immemorial usage to cut down even a rafter in them without the *Sarkár's* authority, applications to cut wood to build or repair houses were, during the

---

[1] The following extract from the High Court's judgment in the Pendse Case relates to this statement :—

"The plaintiff relies on this statement as evidence that at the accession of the British Government, all claims of Government to timber throughout the Konkan had been publicly abandoned. But the Governor in Council seems to have been misinformed as to the extent to which the prohibition had been removed. He must have had in his mind what is known as Dunlop's proclamation, which was issued on the 1st March 1824. It is clear on the face of this proclamation, and it has been repeatedly held in our courts, that the abandonment by Government of its rights was intended to take effect in the Southern Konkan only; and the proclamation itself contains a declaration that previously 'it had been the practice of Government to take *sisu* and good timber which may have been on any one's round.'"

The proclamation moreover relates only to trees on occupied land; it was admitted in the Pigonde Case, and the principle of the admission was endorsed by the Court, that unless a *khot* was 'proprietor' of his lands, the proclamation neither conferred upon nor confirmed to him any rights in the timber trees. The following is a translation of the proclamation :—

"It is written as follows for the information of all people. Formerly the Government used to take teak, *sisu* and good timber which may have been on any one's ground (*jága*) in consequence of which people did not take trouble to produce (such trees). This having come to the notice of Government and considering that if teak and *sisu* and all other kinds of good timber are produced in the country it will be advantageous to all, it is now made known to all people that beyond the limits of the Government Preserves at Bandh and Tudil and Vinhere in the Suvarndurg *táluka*, and Máhan in the *subha táluka* of Málvan, Government has no claim to the teak and other trees which may be on the ground (*jága*) of whatever person. People may do what they please with the trees they now have, and may hereafter produce. Government will not cause the slightest obstruction.—Dated 30th *Jamádilákhar*, corresponding with the 1st of *Fálgun Shudh* 1745, 1st March 1824."

three years in which I was in charge of the *zilla* frequent, some were acceded to, others refused according to circumstances, but the exclusive right of Government remained to the last undisputed."

The proposals made by the Collector of Thána received the approval of the Revenue Commissioner in a letter to Government, No. 288, dated 10th March 1840, in which he suggested that a Conservator of Forests should be appointed. It was further recommended that forests should be demarcated, and " in all other places where absolute prohibition to cut might appear inexpedient, it should be confined to young trees of a certain size, large trees being allowed to be felled under permits from the Collector specifying the number and size of the trees to be cut, and removed only under the inspection of the village authorities."

There does not appear to have been any direct reply from Government as to the Thána District, the reply* sent to the Commissioner having reference only to the Ratnágiri and Málvan districts, " where the right of Government to prohibit the felling of trees was indisputable." The Collector, however, acting probably on the approval of the Revenue Commissioner, in 1841, issued prohibitory orders restricting the cutting of teak. In his letter No. 62 of the 10th May 1841 the Collector, on a reference from Government regarding a request from a certain boat-builder that the Collector might be instructed to let him cut some teak, informed Government that " injunctions had been sent to the local native authorities in the several *tálukás* of the *zilla* in order to prohibit the indiscriminate cutting of teakwood in conformity with the intimated wishes and instructions of Government." After some further correspondence with the Revenue Commissioner, Government informed the petitioner in their letter No. 3553, dated 22nd November 1841, that " it is no longer considered expedient to allow timber to be felled in the forests of the Thána Collectorate by private individuals." In 1843 one Shaik Ahmed Cubbay, an inhabitant of Bombay, applied to Government for permission to cut teakwood in the jungles of the Konkan for building purposes, and he was told in reply " to purchase timber at the Thána market as other persons did." (Government letter No. 2390, dated 21st July 1843.)

*Government letter No. 1375, dated 30th April 1840.

5. With his letter No. 377, dated 23rd March 1841, the Revenue Commissioner submitted a summary of the reports of the Collectors respecting the management of the *kurans* or grass lands and the cutting of the trees growing thereon. The following extract relates to Thána :—

" Owing to the abundance of forage in the Thána Collectorate no revenue appears to have been derived from the farm of the grass lands in any but a few spots in the immediate vicinity of Bombay. Elsewhere the culturable spots of hill-land are assessed in different ways and the cultivators are allowed to cut and burn as much of the wood as they may find necessary for manure to the land.

" No hardship could, however, it appears to me, be entailed on the cultivators by prohibiting them from cutting trees, of whatever size, of certain specified kinds calculated to produce timber. Nor in the more inhabited parts would there be much difficulty in enforcing such a prohibition."

Dr. Gibson was appointed Conservator of Forests in 1846, and the following extract from his report for 1856-57 shows the nature of the arrangements made in Thána for the preservation of certain valuable kinds of timber growing in jungle tracts in the vicinity of villages :—

" Mr. Law, when Collector of Thána, had in concert with me (in 1845 or 1846) assigned to each village a timber reserve proportioned to the size of the village bounds, and it was ordered that this reserve, as well as the timber growing in the *shindádi* ground of the rayats, *i.e.*, ground wherein grow the bushes from whence the material is cut for burning in the adjacent fields, should be carefully preserved for village use."

It appears that about the same time orders were issued by the Collector placing restrictions on the cutting of certain trees for *ráb*, as in the months of August and September 1846 nearly a dozen petitions were received from the rayats in the different parts of the Thána District complaining that they were prohibited from cutting the trees* mentioned in the margin, which they alleged were the principal sources of the *ráb* supply required by them for their fields. It must be noted that the petitioners stated in their petition that " agreeably to the Government order, which was issued some time back, they had discontinued to cut teakwood in the Government jungles and in their fields," thus implying that they acquiesced in the restrictions imposed on cutting teak. It appeared from the reports called for from the Collector on these petitions that the orders complained of " did not altogether prohibit the cutting down of the trees specified, but directed the *mámlatdárs* to preserve them in places where they might be growing in a sheltered situation, but in no case to exceed an eighth or tenth of the jungle appertaining to the village, and wherever this might cause inconvenience, to confine the restrictions to the four kinds most valuable as timber." The Collector went on to state " under the order above referred to, which was issued after consultation with Dr. Gibson, the rayats would, I conceive, have everywhere an ample supply of wood for building and fuel, as well as of loppings for their fields, whilst they would themselves gain in the end by having finer timber than at present."

*Ain, hedu, bibla, nána, dhávda, kalam, sisu, asána.

Government in their letter No. 116, dated 14th January 1847, approved of the Collector's proceedings, and ordered that " every means should be taken by the Collector to make the objects in view in the restriction intelligible to the rayats with the eventual advantages it is fraught with, and that it should be seen that the orders on the subject were not overstepped to the real injury of the rayats. "

6. In 1844 on a petition from certain villagers in Poona reports were called for as to the practice regarding the provision of grazing for cattle in different districts. The Revenue Commissioner, S. D., in submitting his report remarked as follows :—

" Under former Goverments certain portions of land would appear to have been set apart for the village cattle, but it is not to be deduced from the existing village records that such appropriations were general or that they were made upon any fixed principle. There is consequently, I think, nothing to call in question the right of Government to assign all cultivable lands or to derive a revenue from waste by means of a tax on the cattle and sheep grazed upon it, though the latter has of late been expressly limited to herds and flocks other than those of the villagers."

Government issued the following order (No. 3621, dated 16th October 1844,) on the reports :—

" Notwithstanding the right of Government to levy an assessment on all land, the Governor in Council is of opinion that care should be taken that no encroachments are made upon what in any village is the *gáirán* from time immemorial unless it should be found to be excessive in quantity and far beyond the wants of the resident population. The *gáirán* is generally, if not always, a certain portion of unarable waste.

" The rayats, if requiring pasturage beyond that afforded by the established *gáirán* can provide it by paying the assessment of such land, or by purchasing the right of occupancy when the arable waste may be sold. His Honour in Council is therefore averse to any proportionate allotment of the arable waste for common pasturage.

" In some villages all the arable waste is under the plough. In them therefore any allotment of such waste for free pasturage would necessitate the abandonment of the assessment on land which has hitherto paid it. It would be unjust to such villages, were any general scheme of free pasture allotment introduced, to exclude it from a privilege which its neighbours were enjoying.

" In the disposal of the arable waste for pasturage every preference should be given to the rayats of the village over strangers. This waste should be let out by fields, and first offered to rayats on low and reasonable terms, and in no case should strangers, and more particularly speculating contractors, be admitted to compete except where the rayats may, from the *gáirán*, from their own holdings, or from previous purchases of waste, be fully provided."

7. In their letter No. 466, dated 29th January 1846, Government approved of drafts of a circular to District Officers and a notice to the people submitted by the Military Board. In the circular District Officers were instructed " to make every endeavour consistently with security to the revenue and justice to individual cultivators to abate the evil of spade cultivation on the ground of Government forests, to enforce strictly the prohibitions against felling trees on Government lands, and at the same time take measures to check all waste and destruction of timber trees in existence, to secure their better preservation, and encourage the planting of more."

8. With the establishment of a Forest Department came into prominence " the question as to the propriety of establishing a uniform scale of duty on timber and firewood, a duty which shall recognize and protect the seignorial rights of Government to the timber and at the same time check the excessive consumption which appears to have gone on since the modification and partial abolition in 1838." The reference here is to Act I. of 1838, under which all Transit or Inland Customs duties prescribed in certain previous regulations were abolished. A statement[1] furnished by the First Assistant Conservator of Forests with his letter No. 32, dated 9th February 1854, shows the nature and extent of the duties levied

[1] The undermentioned tax was levied by the British Government prior to 1837-38 at Balsár Bunder on timber, &c., &c., proceeding from the different forests to the above locality. In addition to the above, 3 per cent. was charged on all exports from this port, which was also remitted by the British Government :—

*Camp Balsár, 9th February 1854.*

| | Rs. | a. | p. |
|---|---|---|---|
| Teak timber per cart ... ... ... ... ... ... ... ... | 0 | 2 | 3 |
| *Sisu* (blackwood) and Tunuch per cart ... ... ... ... ... ... | 0 | 4 | 0 |
| *Tolki* ... ... ... ... ... ... ... ... ... ... ... | 0 | 1 | 4 |
| *Tolki*, new ... ... ... ... ... ... ... ... ... ... ... | 0 | 2 | 3 |
| Curves ... ... ... ... ... ... ... ... ... ... ... | 0 | 2 | 3 |
| Material for building purposes ... ... ... ... ... ... ... | 0 | 2 | 0 |
| " Lodia " ... ... ... ... ... ... ... ... ... ... ... | 0 | 1 | 4 |
| *Khair* wood ... ... ... ... ... ... ... ... ... ... ... | 0 | 2 | 0 |
| Baharai... ... ... ... ... ... ... ... ... ... ... | 0 | 1 | 4 |
| Timree wood ... ... ... ... ... ... ... ... ... ... | 0 | 8 | 0 |
| Bamboos, small ... ... ... ... ... ... ... ... ... ... | 0 | 1 | 4 |
| Do. large " Tokuria" ... ... ... ... ... ... ... ... ... | 0 | 4 | 0 |

by Government before 1838 on timber conveyed from the different forests towards the bunder of Balsár. After the passing of Act I. of 1838, however, the *kolái*, which as explained above was a charge for the privilege of cutting wood, or a tax* of the same nature but bearing another name, continued to be levied. In a report by the Deputy Collector of Customs, dated 30th October 1840, it was explained that "in abolishing the old rate of customs Government in many instances sacrificed what was in reality a seignorage on wood cut from the Government forests, though it was levied by the Customs farmers and had come to be included as an item of customs." After some correspondence Government in their letter No. 7202, dated 12th July 1851, sanctioned a scheme proposed by Dr. Gibson, for the levy of fees in the Thána and Belgaum districts. The fees were arranged according to the circumstances of the different *tálukás*. The schedule[1] for the Sanján and Máhím *tálukás* is given in a foot-note. Exemptions from fees were granted in the following cases:—

* e. g. *Rankhand, Wanee, Kabar-Makta,* and *Sherista.*

1. "*Hathsmoolee* or broken wood as gathered by the poorer classes and sold for their daily subsistence in the towns."

2. "All timber for building purposes or ploughs and firewood required by the cultivators and cut by themselves," subject to the condition that "no building timber should be cut without a permit from the *kamávisdár* or *mahálkari* of the *táluka* or its subordinate *mahál.*"

3. "All head-loads of jungle-wood*, *kárvi* and bamboos carried by the poorer classes living under and near the Ghát for sale in the up-country in Konkan town bázárs."

* Exclusive of the four kinds of wood belonging to the 1st class, *viz., hedu, kalam, tivas* and *sisu.*

4. "All wood from *dumála* or *inám* villages in which the right of forest is vested in the *inámdár*," provided it is covered by "a duly sealed permit signed by the *inámdár* or his responsible agent."

9. About the same time on a recommendation of the Collector of Thána Government in their letter No. 7326, dated 16th July 1851, ordered that a tax levied from the *Káthkaris* for firewood required by them for the manufacture of *Terra Japonica* (*catechu*), which was abolished in 1836, should be re-imposed; while in their letter No. 8834, dated 5th September 1851, they sanctioned a proposal of Dr. Gibson that the exemption then existing of the inhabitants of Bassein from the payment of the requisite fees for firewood required by them for sugar-boiling should be continued, "subject to the proviso that they must obtain at the beginning of the season a permit from the *kamávisdár* for as many cart-loads as they and he may estimate to be necessary for their wants."

10. In their letter No. 9180, dated 13th September 1851, Government sanctioned the proposals of Dr. Gibson to farm the duties in several *tálukás* of the Thána District, as an experimental measure.

11. With reference to a proposal repeatedly urged by Dr. Gibson that transit duties should be levied on timber cut in Native States and passing through British territory by way of reciprocity, such duties being levied by the Native States on timber cut in British forests and conveyed through the territory of these States, the following order (Resolution No. 1913, dated 7th May 1855) was passed:—

"Government have no intention whatever of reverting to a system of transit duties on timber grown in the forests of foreign States. The Government charge for felling now leviable on timber represents the price of such timber, and may therefore be restricted to the produce of British forests. Where timber produced in the forests of foreign States enters our territory by the same routes as the timber of our own forests, we have a right to satisfy ourselves that it has not been felled in our territories and with this view certificates may be demanded in such form as may be prescribed by Government, which would exempt foreign timber from the levy to which British timber is justly liable."

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1 On 1st class woods, *viz.*, *Hedu, Kalam, Tivas, Sisu.* ... Annas 12 per two common suboni carts in use in the tálukás.

*Ain, khair, bibla* and all others not above enumerated, excepting teak, which latter is not permitted to be cut. ... Annas 6 per two common suboni carts in use in the tálukás.

| | |
|---|---|
| *Sarpan* or *kita, i. e.*, firewood ... ... ... | Annas 2 per cart when brought to Sávta or to Dahánu, Umbergaon, Máhim, &c. |
| Bamboos ... ... ... ... ... ... | Annas 4 per cart. |
| *Bankáthis* ... ... ... ... ... | ¼ anna per man's load. |
| *Kárvi, Boru, Jhita* ... ... ... ... ... | 2 annas per cart. |
| Charcoal ... ... ... ... ... ... | 6 annas per cart. |
| | 1½ annas bullock-load. |
| | ¾ anna ass-load. |
| | ½ anna man's load. |
| *Pánkumba* or fishing sticks, three classes... ... | Rates not settled at the date of report. |

"The above fee is to be levied in supersession of all local levies at present made. Fees at present leviable (if any) on *dháiti, undi,* myrobalans and other jungle products to remain on their present footing and to be leviable by the farmer, in case the seignorage be given in farm."

12. On a representation from the Collector of Poona and other officers to the effect that the *chavkis* at which the fees were levied were so located as constantly to obstruct the conveyance of timber other than that produced in Government forests, Government (Resolution No. 946, dated 18th March 1858) directed that "the stations at which the duty is realized should be carefully selected so as to interfere as little as possible with the removal of timber except from Government forests."

13. In the meantime the Survey Settlement was being introduced in the Thána District. The part of the Collectorate first settled was the Khálápur *peta* of the Nasrápur (now Karjat) *táluka*. In his letter No. 32, dated 18th January 1855, Captain Francis described the mode of settlement of *varkas* land which he proposed to adopt as follows :—

> "I propose to abolish the existing system above described (assesment on annual measurement or each plough used), and to introduce the plan of a fixed annual payment for all the *varkas* and hill-lands of each village irrespective of cultivation. I would determine the amount to be thus imposed by considerations of what the village has heretofore paid, taken with reference to the extent and value of all its *varkas* and hill-lands, and would apportion it over the rice assessment either by an extra rate of so many annas on each rupee or by an increased maximum rate for the rice lands. There are other ways in which the apportionment might be made, but the latter is the plan I most approve, and that, therefore, which I purpose to adopt. By this plan each cultivator's payment is made dependent on and proportionate to the value of his rice holding. This is in accordance with the existing apportionment of such lands, as each rice field has its allotted portion of *varkas*, which, I think, it is very desirable should not be separated from it."

Government, however, in their letter No. 3370, dated 2nd September 1856, while sanctioning the arrangements made for the Khálápur *peta*, expressed their disapproval of the system adopted in the following terms:—

> "A large proportion of these hill-lands, whether cultivated or otherwise, are described as being attached to the rice lands of the village. That is, a certain piece of hill-land is allotted to each field of rice cultivation and is considered essential to its proper culture, inasmuch as it affords a supply of grass and brushwood for *ráb* or wood-ash dressing. But all the hill-land so attached is not required for this purpose; a portion is cultivated with inferior crops called *varkas*, and a portion produces grass for the rayat's cattle or for sale; other unattached portions of the hill-land are reserved for *gurcharan*, or common pasture, and as Government forest and waste.
>
> "His Lordship in Council cannot but think that the practice of manuring the rice lands with wood-ashes, which prevails in the Konkan and which demands for its support a most wasteful appropriation of large tracts of hill-land for brushwood, may have its origin quite as much in the gratuitous terms on which the fuel has hitherto been obtainable as in the absolute necessity for supplying ashes to the soil.
>
> "Sound principles demand the taxation of these hill-lands irrespective of the uses to which they may be applied by their occupants.
>
> "The absence of any land-marks by which the sub-divisions of hill-lands attached to rice cultivation may be identified and distinguished not only from each other, but also from the *gurcharan* common to the village, and from the Government unappropriated forest and grass lands, appears to His Lordship in Council a great imperfection in Captain Francis' scheme of assessment. It can hardly be otherwise than that, unless such defined limits are laid down by the Revenue Survey, future encroachments, disputes, and uncertainties must arise. Government are, therefore, of opinion that even if the area of the several holdings of hill-lands is not separately determined, measures might nevertheless be taken to mark out their boundaries as permanently and distinctly as circumstances may permit.
>
> "This being done, there will, in the opinion of Government, be little difficulty in assessing on each of these holdings a fixed annual rental to be paid alike whether the land be cultivated with inferior crops or used only for *ráb* or for pasture."

These instructions were given too late to be acted upon at the settlement of the remaining portion of the Karjat *táluka*. In Government Resolution No. 5870, dated 24th October 1873, however, a detailed survey of the *varkas* lands of the Karjat *táluka*, including the Khálápur *peta*, was ordered, and individual holdings of *varkas* land were measured and recorded as in other *tálukás*. The instructions were carried out in other *tálukás* except Kolvan and Sanján at the time of the Survey Settlement. The following extracts from the report of the Thána Forest Committee of 1863 show the nature of the arrangements made :—

> "The lands appropriated by the village community to the growth of brushwood and grass, used as the *ráb* materials for rice lands, have been recognised by the Survey as part of the rayat's holding. All lands of the kind have been measured off into separate survey numbers or divisions, assessed at fixed rates, and their limits defined with boundary marks. Individual claims were carefully enquired into at the time of the survey, and lands over which the privilege of cutting grass and brushwood extended were recorded as part of the rayat's holding. In short the right over such lands has been recognized as differing in no way from that pertaining to cultivated lands generally.

"In addition to dividing into separate allotments the lands used for *ráb* the survey has marked off tracts for cultivation, where such have existed distinct from *ráb* land, tracts for forest reserves, tracts for *dalhi*, where it has been considered necessary to permit that kind of cultivation, and tracts for public grazing land. The forest allotments and the grazing lands have not in all cases been kept distinct.

"The survey has recognized the proprietary right of the occupant to all trees growing in *ráb* lands, with the exception of teak and blackwood, which in these and all other lands are regarded as royalties."

The *tálukás* of Kolvan and Sanján (now Dahánu, parts of Sháhápur, Váda and Máhím), were subsequently settled. The manner of treating *varkas* land which was adopted in these *tálukás* is shown in the following extracts:—

* *Kolvan.*—"These tenures are the *khásbandi* and the *nángarbandi* and are found in 13 and 67 villages of the *táluka*, respectively. By the former the cultivator holds a certain quantity of rice and *varkas* land, which together form his *khás*, the two descriptions of soil being held together and the ownership being well-known and acknowledged; under the latter the revenue is raised by a tax on the plough, the rayat cultivating wherever he pleases, and as much as he can, but no individual as a rule claiming ownership over any particular spot. The *khásbandi* villages have been settled by measuring off into one large survey number the whole of the *varkas* land which under the old system was lumped with the rice. That portion which with his rice land formed the *khás* of each rayat has been roughly chained out and entered with the rice land in the *kháta* of the owner, the rice land with its allotted portion of *varkas* being treated as one survey number, to be relinquished or taken up as a whole. The surplus *varkas* has been broken up into numbers of from 15 to 30 acres, to be taken up on application at survey rates.

* Paragraphs 2-4 of G. R. No. 3183, dated 5th September 1866.

"Nothing could be more equitable than this arrangement which has the entire approval of Government.

"The *nángarbandi* tenure presented greater difficulties, which have been met as follows:—

"The rice lands, measured and classified as usual, have been entered in the name of the *pro tempore* cultivators, who are held answerable for the assessment upon them. The *mál* or *varkas* land has been left in one large number and a lump assessment fixed for the whole village, to which all the rayats contribute if a *kabuláyat* is signed, the apportionment of the sum payable by each being annually made upon the plough. This settlement was accepted in several villages; where it was declined it was intimated that the lump assessment would be levied from those who cultivated the *varkas*, whether they were many or few."

* *Sanján*—"Many of the villages in this district were held on the *nángarbandi* or 'ploughtax' tenure, and it was the intention of the late Superintendent, Colonel Francis, to place a lump sum on the *varkas* lands of each village, a plan which had been successfully introduced in Kolvan and the neighbouring district of Talásri. The *varkas* lands accordingly had not been measured off into numbers in those villages, but as at the time of *jamábandi* the people requested that they might have their *varkas* lands measured, I complied with their request, and informed them that surveyors should be sent to measure off such lands as they should point out. This was accordingly done and the survey assessment on these lands will be collected from the present season on sanction to these proposals being received."

* Paragraph 13 of Major Waddington's report No. 474, dated 14th October 1868.

The arrangements with regard to the cutting of wood on *ráb* lands made in these two *tálukás* are shown in the following extracts:—

*Kolvan.*—"* The people were informed that they were at liberty to cut firewood and timber for their farming implements and dwellings in any lands except those set aside as Imperial forests. Teak, blackwood, *tivas* and bamboo (the people however being allowed to cut the latter for domestic purposes) were everywhere reserved to the State. No wood of any kind is to be exported or sold for export."

* Paragraph 8 of Major Waddington's letter No. 558, dated 20th December 1865.

"*Ample liberty seems to have been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington, which do not deprive them of the rights exercised heretofore in respect of wood."

* Paragraph 9 of G. R. No. 3183, dated 5th September 1866.

*Sanján.*—"* There is one important subject on which I have to request the orders of Government in connection with this district, namely, whether the right of the people to fell timber on *ráb* lands should not be restricted to cutting fuel for domestic use and wood for their houses and agricultural implements. At the time of the settlement of the Kolvan *táluka*, the Survey Commissioner, N. D., the late Mr. Gordon, then Collector of Thána, and myself were so strongly impressed with the necessity of checking the wholesale destruction of timber which was then going on, that we took on ourselves the

* Paragraph 15 of Major Waddington's letter No. 474, dated 14th October 1868.

responsibility of forbidding the felling of timber in *málki* numbers for any purposes other than those enumerated above, and our proceedings were sanctioned by Government Resolution No. 3183 of 5th September 1866. In a district so well wooded as that under report, and which is traversed throughout its length by the Bombay, Baroda and Central India Railway, I deemed it of the utmost importance to guard against the destruction of timber, and after consultation with the Survey Commissioner, N. D., I made the same restrictions applicable in this district as had been imposed in Kolvan."

"*His Excellency in Council approves of the restrictions that have, as a special case, been imposed on the indiscriminate cutting of wood. The rayats will be allowed the utmost freedom in supplying themselves with all they require for their own domestic and agricultural purposes, but they will not be permitted to turn wood-dealers."

* Paragraph 6 of G. R. 2775, dated 11th June 1870.

14. About the year 1860 the attention of Government was drawn to the indiscriminate destruction of the forests which was going on under the system of farming the levy of fees, and it was ordered in Government Resolution No. 1277, dated 5th April 1860, that the farming system should be abolished, and a system of direct collections by the agency of the Forest subordinates substituted. In the annual report of the Forest Department for the year 1860-61 the Conservator reported that the new system was working satisfactorily, and further remarked :—"Two decided improvements have been effected this season; the one is the restriction imposed on the cutting of *ain* and *khair* for firewood, and the other the shutting up of those forests which are much exhausted." Government expressed their approval of these measures in paragraph 2 of their Resolution No. 4394, dated 11th October 1861.

15. It seems also that it was about this time that the system of departmental cutting was introduced. In 1863 the Bombay Association complained of a sudden rise in the price of fuel in Bombay, which they attributed to the system of departmental cutting, and prayed for a reversion to the old system, under which any person was allowed to go into the forest and cut wood on payment of the requisite fee. Government declined to grant the memorialists' request, and in their reply* observed as follows :—

* No. 4, dated 4th January 1864.

"The preservation of a supply of fuel has become a matter of so much importance that the adoption of measures to protect the forests from the destruction to which they have hitherto been subjected by allowing every one who may choose to go into the forest and cut firewood on payment of a small fee per cart-load or head-load could no longer be delayed."

16. Government received about this time several other petitions appealing against the measures taken for the preservation of their forest rights in the Thána District, and in their letter No. 4064, dated 14th November 1863, appointed a committee to enquire into and report on the whole forest question in Thána.

17. The report of the committee was submitted with the Commissioner's letter No. 109, dated 15th January 1864. The following are extracts from it :—

(1). "We consider that both the present and past Governments have invariably exercised a right of property in all forests, and wherever such property is now enjoyed by private individuals, it is by virtue of grants or concessions derived from the ruling power.

(2). "Private property as a general rule is recognized in a greater or less degree in trees in occupied and *rán* lands, with the exception of teak and blackwood, which have always been regarded as royalties wherever growing. But besides the rights of private proprietors, there are certain privileges in respect to forest lands which the agricultural classes have enjoyed, *viz.*, (1) the privilege, according to the custom of the country, of cutting grass and brushwood (the materials used as *rán* or manure) upon certain tracts of land attached to their rice-fields; (2) the privilege of cutting firewood gratis in the Government forests for domestic purposes; (3) the privilege of free grants of wood for agricultural purposes and dwelling houses subject to special permission.

(3). "The subject of *rán* was fully discussed when the first Survey Settlement was introduced into the Konkan in 1855. Although Government admitted the propriety of continuing the privilege, they did so on the express condition that the lands used for the purpose should in future be subject to assessment, and not enjoyed rent-free as heretofore. Government at the same time recorded their opinion on the wasteful nature of the practice. We concur in this opinion, but as the lands over which this privilege is exercised have been regularly assessed on the extension of the survey to each *táluka*, there is no longer the same objection to the practice as when enjoyed gratis.

(4). "The privilege enjoyed by the rayats with regard to firewood was not a subject of enquiry for the survey, and no action consequently took place in the matter. Every consideration leads us to recommend the continuance of this privilege under arrangements to be explained hereafter. We consider the privilege of free

grants of wood for agricultural purposes, &c., as differing materially in its conditions from that of the free use of firewood. We would regard the latter as a right pertaining to the village community, such as exists in respect to lands set apart for public grazing grounds, or for other purposes common to the village in general. On the other hand the practice of obtaining wood for building purposes and agricultural implements has been a personal privilege, which the State could grant or withhold as might seem expedient. We would recommend as a general rule that free grants of the kind referred to should be discontinued.

(5). "The plan of setting apart tracts specially for the use of the villagers has been recommended. There is in this plan the risk of the supply thus provided not being economically used, and as a consequence in a few years a clamour would be raised for access to the reserved tracts.

(6). "We would prefer to grant the rayats free access to such forests as may not be included within the specially reserved tracts. In those forest villages in which the land so set apart is not sufficient for all the domestic wants of the village, a liberal extent should be marked off from the forest reserves. To this free access should be permitted with only the following restrictions:—

(*a*). That they are not to cut down the reserved kinds of timber (teak, blackwood, *tivas*, *khair*, *ain*, *asána*, and *nána*) for firewood.

(*b*). That they are to confine their cuttings of firewood and building timber to what is required for private use.

(7). "There are numerous villages, particularly on the coast in the Northern Districts, which have no fuel resources, and their inhabitants have hitherto had the privilege of cutting firewood in the distant Government jungles subject to payment of the customary fee. We consider it unadvisable to permit them to have access to the Government reserved forests, but admit their claim to the privilege of being supplied on the terms hitherto enjoyed. But we consider that it would be more economical, as regards our future firewood resources, for the Forest Department to cut the necessary supply of wood for this class of villages; a sufficient portion of the wood cut should be set apart for these villages subject to the payment of a sum sufficient to cover the cost of cutting and the Government fee or charge for firewood. There should be no auction sale of the wood intended for the villagers. In towns where there is a municipal committee, the supply of wood needed for the town might be made over to the committee for distribution on the conditions above mentioned, provided that no additional charge be made except that for carriage. The privilege of obtaining wood at the price named should be confined to wood required for domestic purposes only.

(8). "Kátkaris have hitherto earned their living for part of each year by cutting firewood in the jungles and carrying it to the large towns for sale. It has been the custom of the Forest Department hitherto to allow this practice, charging a small fee on each head-load. It is with reluctance that we would deprive these people of this source of livelihood; but we believe it would be impossible to carry out a system of proper conservation if the practice of allowing them free access to the forests is continued. The deprivation will not be felt so much now as it would have been formerly for the sources of labour have of late years greatly multiplied. It will be to the interest of the Forest Department to employ these men in cutting for Government.

(9). "We are of opinion that the Assistant Collectors of the respective districts are the officers to whom the duty of marking off the forest allotments may be safely entrusted. The work of marking off the allotments might be commenced as soon as the season permits of officers visiting the jungle districts of their charge.

(10). "We are of opinion that the departmental cutting of all wood will be of great advantage in many ways. Under proper supervision the cuttings will be limited to trees of certain dimensions, whilst a future supply will be secured by preventing the destruction of saplings and young growing trees. No such protective measures could be enforced under the fee system. But the plan is recommended not for these advantages only, as an effective means of breaking the present monopoly of the Bombay wood-dealers."

The Revenue Commissioner (Mr. Ellis) in forwarding the report objected to a system of half-reserved forests, and preferred the plan of marking off a tract specially for the use of the villagers as the grazing grounds were marked off. But Government in their Resolution (No. 1106, dated 26th March 1864,) on the report considered that this would be simply leaving the difficulty as a legacy to a future Government, and remarked that forest and even firewood was of slow growth, and that a country, when once denuded of trees, rarely ever again became clothed with them. The proposals of the committee were approved. Assistant Collectors were to carry out the demarcation. Government ordered that the village officers should make annual reports about the condition of their forests which should also be annually inspected by the forest officers; that the cuttings of the villagers should be conducted under such rules as might be made for clearing and thinning

the forests in rotation; and that the privileges of the rayats should be restricted to what they might require in the shape of firewood and building timber for private use. The committee's plan for supplying non-forest villages with firewood was approved, but the gross quantity required in each village was to be at once fixed, the distribution being left to the villagers themselves. Government at the same time considered it desirable that "what have hitherto been the privileges of these vallages should be specially enquired into and ascertained, so that the burden and trouble to the Forest Department of providing fuel at cost price should not be extended to those who have never enjoyed the privilege." It was further ordered that the rights of private proprietors holding less than whole villages should at once be ascertained and defined, and should be disposed of under the rules[1] sanctioned by the Revenue Commissioner, N. D., in his letter to the Collector of Thána, No. 2545, dated 13th October 1862. As regards free grants of wood, Government entirely approved of the rules[2] laid down on the subject in the Circular letter of the Revenue Commissioner, Northern Division, No. 2000, dated 17th July 1863, and considered that the rules should be generally adopted, the wood thus granted being cut from the reserved kinds of timber in the village reserves. Government trusted that the Kátkaris would find ample employment under the departmental system of cutting, which was also considered the best for providing the market for the public with fuel.

17. In Government Resolution No. 1935, dated 8th May 1865, certain additional rules for demarcation were laid down :—

> "The forests should be compact and natural boundaries should be taken advantage of. If it is necessary to remove hill-villages and hamlets the measures to be adopted for providing the people with land both for village sites and for cultivation elsewhere together with the amount of compensation payable to them should be reported." . . .

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[1] "The trees may be divided into three classes:—

*I.—Fruit trees.*

1. When the produce or a share of the produce has been annually received by Government.
2. When the whole produce has been enjoyed by others.

In the latter case no interference is called for. In the former case the Government right should be offered to the holder of the land at a maximum of 10 years' purchase, calculated, on the average receipts, and a lower price should be offered according to the age and condition of the trees. If the offer be refused by the holder of the land, the right should be put up to auction and sold to the highest bidder. If Government have hitherto shared the produce with a private individual it will make no difference, as of course only the Government right will be disposed of.

*II.—Teak and Blackwood Trees.*

1. In reserved numbers to be carefully preserved, and to be in charge of the Conservator of Forests.
2. In other than reserved numbers—

(*a*). When the trees are numerous to be specially entered in the records as Forest rights reserved.

(*b*). When the trees are thin and few, to be offered to the holder of the land at a valuation, and if refused the trees to be cut down and sold. In either case the proceeds to be credited to the Forest Department.

*III.—Jungle Trees of all other kinds.*

1. On reserved forest numbers to remain under the Conservator of Forests.
2. Trees on the side of or close to, a road, to be preserved as hitherto.
3. On all other lands, to be given up gratis to the occupants of the lands.
4. In future, on application for the occupancy of waste numbers the trees on the land will be sold with the right of occupancy.
5. Whenever there are, in *bágáyat* lands, trees of which the annual produce has hitherto been separately brought to account, the trees will be given up gratis to the occupants, if the said produce has been taken into account in fixing the assessment, otherwise the trees will be disposed of once for all according to the foregoing rules.'

[2] I.—"Timber may be allowed by the Collector gratis for—

1st.—Repair and construction of—

I. Village *Chávdis.*
II. Village Schools.
III. *Dharmshálás.*
IV. Public Wells.
V. Bridges over *nálás* and water-courses.

2ndly.—Repairs to village churches, temples, or mosques.

3rdly.—Houses of agricultural classes paying revenue to Government. Grant to be made only when the Collector considers the circumstances of the applicant to call for the grant.

4thly.—Agricultural implements, wells for irrigation, and other agricultural improvements, to be granted on the same grounds as No. 3.

II.—A grant under Nos. 3 and 4 is not to exceed Rs. 20 in value, and a grant in other cases is not to exceed Rs. 50, without previous sanction of the Revenue Commissioner.

III.—The grants are to be made from any collection of timber that may be available, the cost of felling and carriage from the forest to the depôt being recovered from the grantees.

IV.—When no depôt is available, then the applicants will be allowed permits or passes to cut on their own account such trees as may have been marked for cutting, the forest establishments being responsible that the privilege is not abused, and that other trees than those pointed out are not cut.

V.—An annual return showing the grants made during the 12 months ending 30th April, should be submitted by the close of May every year."

"Privileges will have to be restricted to those lands which are excluded from forest reserves, but care must be taken so to fix the reserves as not to deprive the people of their accustomed privileges within a resonable distance."

18. Assistant Collectors could not be spared for demarcation work and Survey Officers had eventually to do it. Captains Hobson and Lloyd of the Revenue Survey Department demarcated forests in 1865 and 1866 in the *tálukás* of Bhivandi, Murbád, Karjat, Kolvan and Sálsette. Before this demarcation was sanctioned, a new difficulty had arisen. People were denuding their *varkas* numbers of trees, and thus rendering them unfit for the special purpose for which the assignment of them to individuals was intended. As early as 1858 Dr. Gibson, Conservator of Forests, pointed out that rayats were beginning to cut and sell the trees in their *ráb* lands. He called it a suicidal practice and advocated strong measures for preventing it. In 1864 (Report No. 969, dated 12th October 1864,) the Conservator (Mr. Dalzell) said: "The Thána rayats last season sold large quantities of *ain* cut on their own lands to timber merchants," notwithstanding that they have "to depend so much on this tree for *ráb*." Again in his Administration Report for 1866-67 Mr. Dalzell said: "The great changes which have been brought about in this important district from a regular net income of two lákhs to little or none are, owing to a great extent, to the acquisition of wooded properties by the rayats, and to the acknowledgments of rights or privileges in their favour, which were formerly in abeyance. The fact that during the season 98,000 passes were issued to rayats who were disposing of their own wood shows how little the community is dependent upon the Government resources and how hopeless it is to attempt to compete with them." Captain Lloyd in his demarcation report said on the subject of *ráb*:—"These causes, *viz.*, the demand for land for cultivation, the value of wood in the market, added to the ownership of the trees being in the hands of the rayats, have combined to bring about the wholesale clearance of *ráb* numbers, which is now being actively carried on all over the district. The result is that the area of cultivation and consequent consumption of *ráb* is greatly increased, whereas the supply no longer exists. Half the rayats in the district now look to getting their supply of *ráb* from the village allotments. Wood dealers have agents all over the district buying up the trees in occupied numbers." Orders on Captain Lloyd's report were passed in Government Resolution No. 4345, dated 23rd November 1866. Government approved of the proposed demarcation. "To ensure that the village reserves shall not be speedily denuded of all valuable timber," it was directed that "certain kinds of superior timber must be reserved as the property of Government." The measure thus sanctioned was to be "experimentally adopted for one season in all *tálukás*." A proposal made by Major Francis "to set apart tracts for Gavlis (cow-herds) in which they should be permitted to graze their cattle unmolested" was sanctioned, and the demarcating officers were directed to select the tracts. Captain Lloyd was also directed to arrange for the removal of the Thákurs then cultivating in certain hilly spots, which it was necessary to reserve entirely for forests, to other convenient localities, and it was ordered that their claims should be treated with the greatest consideration.

19. In 1867 certain rayats of the Máhim *táluka* made a petition to Government praying that they might be allowed to cut in the village reserves all kinds of wood, except teak and blackwood, for domestic and agricultural purposes. From the report called for on the petition it appeared that in accordance with the orders passed on Captain Lloyd's demarcation report, the rayats were prohibited from cutting for firewood the 18 kinds* of trees mentioned in the margin. Government considered that the petitioners had no reasonable ground for complaint, and they were so informed. (Government Resolution No. 3578, dated 21st October 1867.)

* Teak, blackwood, *tivas*, *nána*, *jámbul*, *ain*, *asána*, *humb*, *khair*, *hed*, *kalam*, mango, *bibla*, *kinai*, *vehala*, *boawdaray*, *koshimb* and *khurdshing*.

20. In their Resolution No. 5198, dated 17th October 1872, on a correspondence submitted by the Revenue Commissioner, N. D., Government directed that the demarcation of forests in Thána should be carried out on the principles laid down in a previous Resolution (No. 4320, dated 30th August 1872) which were as follows:—

"There should be two descriptions of reserves, one in which the cutting of *ráb* and firewood and the grazing of cattle may be permitted, and the other into which the foot of man and beast should as far as possible be prevented from entering except with the permission of the Forest Department. Both descriptions should be gradually fenced in with living fences, the cuttings from which will eventually be a source of profit or may be made available for supplies of *ráb* and firewood to the villagers under such rules as it may be found advisable to issue hereafter. What reserves shall be included in the former or latter category must be decided by the Revenue and Forest Officers in consultation with each other, cases in which they are unable to agree being referred for the decision of the Revenue Commissioner, who should be guided by a consideration of such customs of the people of the locality as may not be inconsistent with due preservation of Imperial property, which is common to all. Large forest reserves of the first class should be formed, where this can be done, in favourable localities without putting the Land Acquisition Act in force by payment of reasonable compensation to persons moving elsewhere. . . . Where ash-manure is ordinarily procurable from trees in people's own lands or from grass or cowdung, access to the reserves for *ráb* should not be permitted; but where such is not the case it will be the duty of the

officers selecting the reserves to provide for it by setting aside definite portions of reserves, or in any other way that may appear feasible. Similarly with firewood the best arrangements practicable should be made for the maximum of forest conservancy with the minimum of interference or annoyance to the people. For instance it may sometimes be better not to allow people to cut it for themselves, but to have it collected and stacked on the edges of reserves, the village revenue officers levying from the villagers taking it small fees under the orders of the Collector sufficient to cover the cost of collection and stacking. By such arrangements it is believed the formation of village reserves, which finds no favour with the most experienced officers, may be rendered unnecessary."

21. In 1873 petitions were received from certain inhabitants of Bhivandi and Karjat *tálukás* complaining of the restriction imposed on the cutting of trees in the jungles of the district by a Circular of the Collector issued in 1872. The orders of Government on the correspondence that ensued on these petitions are contained in Government Resolution No. 4965, dated 3rd September 1873, paragraph 4 of which as subsequently modified by Government Resolution No. 294, dated 20th January 1874, is as follows :—

"The privilege of cutting *ráb* in *gurcharan* land and in village reserves should be allowed to rayats holding rice fields, but on the distinct understanding that none of the trees* mentioned in the margin nor any fruit-trees should be cut. The rayats are to be warned that any breach of the order will involve a withdrawal of the privilege. Where no division between Government and village forests has yet been effected, the above privilege may, at the discretion of the Collector pending such division being made, be extended to any forest lands. But the cutting of *ráb* is to be absolutely prohibited in demarcated Government forests."

* Teak, blackwood, *tivas*, *ain*, *kalam*, *hed*, *koshimb*, *kinai*, *bibla*, *khair*, *nána*, *bonda*, *asána*, *humb*, *shivan*, *dhávdá*, *bábul*.

22. In Resolution No. 6176, dated 8th November 1873, orders were passed on a report on the demarcation of the Váda *táluka* submitted by Messrs. Campbell and Birkbeck, and in paragraph 3 it was stated :—

"Government concur with the Revenue Commissioner that the rayats should be allowed to cut down without permission certain specified trees in 2nd class reserves requisite for agricultural purposes and the building and repair of their houses. This point, as well as the bamboo question, should be further reported on by the Conservator."

23. The report thus called for was submitted and disposed of by Government Resolution No. 1281, dated 12th March 1874, in which Government ruled that "the privilege of cutting without permission unreserved description of trees in 2nd class reserves should be allowed only to rayats residing in villages within which the reserves are situated, and should be restricted to firewood," and that "these rayats may also be allowed to obtain whatever wood they may require for agricultural purposes or for the repair of their houses gratuitously, but on condition that the permission of the Forest Department be previously obtained."

24. A further correspondence on the subject of these restrictions was submitted with the Revenue Commissioner's letter No. 3479, dated 25th June 1874, on which orders were passed in Government Resolution No. 3726, dated 17th July 1874. Government declined to relax the orders passed in the Resolution above quoted, and with regard to bamboos ruled as follows :—

"As regards bamboos, the probability is that by the time demarcation is completed there will be few remaining in second class reserves. The object should be to preserve them as far as possible from wholesale and rapid destruction, and to ensure the villagers getting their fair share of them for their own requirements. Permission to cut bamboos should be given on the authority of the *pátils*."

25. About this time a question was raised whether it was necessary any longer to continue the practice of making free grants of bamboos required for *pán* cultivation by the inhabitants of coast and other villages removed from forests. In the Resolution (No. 5508, dated 17th October 1874) passed on the correspondence, Government considered that "it was high time such exceptional privileges should be put a stop to," and observed : "The survey assessments on the gardens are very light, and the extra cost of bamboos would not be felt, while at the same time a reasonable check would be maintained over the wasteful expenditure of bamboos that must result from the present system. Fair warning should be given that the light fees* proposed by the Conservator will be levied from next season, and the present system of indents by village officers put a stop to."

* *Eight annas* for an ordinary size cart, and *one rupee* for a large cart.

26. Petitions were soon received from certain inhabitants of non-forest villages in the Bhivandi and Máhim *tálukás*, complaining of the restrictions imposed in accordance with the orders described above, and praying that they might be allowed to cut firewood, &c., free of charge from the Government forests. Government declined to comply with the request of the petitioners in their Resolutions Nos. 4097 and 4311, dated respectively the 20th and 30th July 1875, and in paragraph 3 of the previous Resolution observed as follows :—

"The existing orders are quite sufficiently liberal. People residing in forest villages are allowed firewood free, and the poorer classes are allowed wood free of charge for agricultural purposes to a reasonable extent. People who live at a distance from forests cannot reasonably expect that Government should give them wood for nothing for their own use, still less to trade in, as many people in the Konkan are in the habit of doing."

27. In a memorandum dated 15th February 1875 on Forest Demarcation in the Konkan Mr. Shuttleworth pointed out the results of the former demarcation made in Thána. He stated: "The lower slopes of hills with the lands at their base, which contain good soil and the best tree-growth, have come into the hands of the people who have played desperate havoc therein.....Conversely the Imperial reserves, which are intended to be the sources of supplying the market with timber and firewood, consist of the upper hill-slopes, abounding in sheet rock, indifferent soil, prolific growth of cactus bushes, scrub, and dwarfed and crooked trees." Government* decided that a special Forest Demarcation Officer should be appointed for Thána and ordered a committee consisting of Messrs. Ashburner (Revenue Commissioner), Pedder (Acting Revenue Secretary), J. W. Robertson (Collector of Thána), Shuttleworth (Conservator of Forests), and Colonel Francis (Survey and Settlement Commissioner) to report on the forest question and frame rules for demarcation and for the subsequent management of the forests. The following are extracts from the committee's report:—

* Government Resolution No. 4057, dated 19th July 1875.

(1). "We consider that the principles of Forest Demarcation and Conservancy were correctly laid down by the committee of 1863, and that the present unsatisfactory state of affairs is due to want of care in the original demarcation and to the absence of an establishment of sufficient strength. The first step is to revise the demarcation that has already been carried out. The Forest Officer, to whom this duty was entrusted, selected the lower slopes of the hills containing the richest soil and the finest tree-growth for village reserves, leaving nothing but the bare hill tops for Imperial forests. It will be the duty of the Demarcation Officer in concert with the Collector to make a fresh selection and division of forest into 1st and 2nd class.

(2). "Forests of the 1st class are to be placed entirely under the control of the Forest Department, forest rights of grazing and *ráb* and firewood are not to be admitted, and if enforced in the courts, are to be bought up. In those villages in which there can only be 2nd class reserves, we must be content to preserve the reserved trees of seven kinds and to protect the forest from exhaustion by insisting on a system of rotation in working it for *ráb* and firewood.

(3) *Ráb and Firewood.*—"In some *tálukás* of Thána the people have treated their *ráb* lands so improvidently that they are reported to be exhausted. We do not recommend that any further concession of *ráb* lands should be made to these people. They are in no worse position than the people of the coast villages who have long since exhausted their supply of tree *ráb* and fuel. If a fresh grant of *varkas* were now made, it would be exhausted like the last in a few years, and Government would be again called on to make a further grant. By interfering at once and by insisting on the 2nd class reserves being worked in rotation we ensure a permanent if not an abundant supply, and this is all that is possible where the wasteful improvidence of the people has left so little to preserve. Inhabitants of villages in which these reserves have been formed will have the right to enter them and cut for all purposes *except for trade* any kind of timber that is not in the reserved list of seven, without any restriction as to quantity. The Conservator should have power to close one-third of each 2nd class forest when he considers it necessary, and while closed it will be treated nearly as a 1st class reserve, but grazing and grass-cutting for fodder or *ráb* should be permitted even when the jungle is closed.

(4) "*Wood for agricultural implements, &c.*—"The Conservator must have a depôt, of timber suited for agricultural implements and also a few rafters and upright beams suited to native houses in each village or group of villages. He must entrust the disposal of the timber to the *pátil* and *talâti* holding them responsible that it is not wasted or improperly bestowed.

(5) "Second class forests cannot be thrown open to the inhabitants of other villages than those included in the forest. In past years these villages were also covered with jungle, but they have exhausted it and they cannot now claim the jungle of other villages. Where such villages have hitherto enjoyed the right to graze their cattle in the 2nd class reserves, we do not propose to restrict that right and it will be the duty of the Forest Department to supply them with timber suited to agricultural implements and house-building."

Government in their Resolution on this report, No. 94, dated 5th January 1876, appointed Mr. Sinclair to be Demarcation Officer, and ordered him to constantly consult the Collector in the course of his demarcation work. It was directed that "in 2nd class reserves a system of rotation of closure may be adopted in respect of *ráb* and firewood cutting where the extent of the reserve may permit of it. Where the reserve is small, strict measures for the conserva-

tion of reserved kinds of timber should be enforced and it should be closed altogether with the consent of the Collector when it showed signs of exhaustion." It was further ordered that "the wild tribes should be treated with the greatest consideration and as far as possible utilized in forest conservation."

28. On a representation from the Collector of Thána the following order (Resolution No. 1183, dated 24th February 1876) was issued :—

"With regard to the proposal that when any portion of a reserve is closed for cutting it should be closed for grazing and *ráb* as well, it may be done when the Collector is of opinion that the remainder of the reserve is sufficient for the purpose, with the Revenue Commissioner's sanction. When such closing has been rendered practicable only by the combination of the lands of several villages, the rights of the inhabitants of one of these must of course not be extinguished or held in abeyance in consequence of the portion of the jungle within their limits only being closed."

Government also concurred in the opinion of the Revenue Commissioner that "in selecting the trees to be reserved in 2nd class reserves the Collector and Forest officers should not be too greedy, and whatever may be the number of reserved trees the jungle must still contain a number of unreserved trees sufficient to supply all the wants of the people for domestic and agricultural purposes."

29. The first report by Mr. Sinclair was submitted by the Revenue Commissioner with his letter No. 4752, dated 11th September 1876, and disposed of by Government Resolution No. 348, dated 19th January 1877. It related to 13 villages of the Kalyán *táluka* and the proposals made by Mr. Sinclair were sanctioned. Government issued the following orders regarding 2nd class reserves :—

(1). The jungle tribes are to be conceded the privilege of collecting honey, *mowra, shikekái, apta* leaves, *kárvi*, dead firewood, grass (to be cut but not grazed), and *dhaiti*.

(2). Teak, blackwood, *ain, hed, kinai, khair, asána*, and *dhávda* are to be the reserved trees.

(3). One-fifth of a block may be closed.

It was further ordered that "it should be clearly explained to the people that the continuance of the privileges now accorded to them in 2nd class reserves is dependent on those privileges not being abused."

30. In April 1877 Mr. Sinclair was ordered to Kaládgi on famine duty. No other Assistant Collector could be spared for the duty and the demarcation of the Thána forests was stopped for a time.

31. The Indian Forest Act came into force in March 1878, and in Government Resolution No. 1543, dated 26th March 1878, Mr. Gibson, Divisional Forest Officer, was directed to complete the demarcation of forests in Thána. The principles on which the demarcation was to be carried out were laid down in a minute by Sir Richard Temple, dated 19th July 1878, which contained the following remarks :—

"It is of course important to prevent the cutting of live-wood for ash-manure (*ráb*) within any of the Reserved forests which have been, or may yet be, formed. This ash-manure is indeed necessary for the rice cultivation and for maintaining the richness of the soil in the cultivated plots. But after the exclusion of the reserved areas there would still remain large quantities of waste on which the people may cut *ráb*. The Collector may, by duly considering the requirements of each village, manage to form extensive Reserved forests, while providing all that can properly be needed for ash-manure: Care must be taken to prevent the orders being misinterpreted as preventing *ráb* altogether. So long as it does not transgress the principles which we establish, it is rather indeed to be encouraged. Doubtless the local authorities bear in mind that while the collecting of grass, dead wood, fallen leaves for *ráb* is very proper, the cutting of live-wood, of seedlings and the like for this purpose is very objectionable as being a wasteful and destructive process. While encouraging *ráb* in its legitimate form, they should carefully discourage the abuses to which it is subject."

The lists of lands to be declared Reserved or Protected forests under Section 34 of the Act were submitted by the Collector, Mr. Jervoise, with his letter No. 3582, dated 25th November 1878, in which he stated :—

"In Reserved forests we have included all lands already demarcated as 1st class reserve, and all those marked off as forests by the Survey Department.

"In Protected forest we have taken the remainder of the unoccupied unassessed waste area, and included also assessed *kuran* land. This area comprises 2nd class reserves demarcated by special officers and set aside by the Survey Department, as well as land entered in the village registers as *gurcharan, ránrakshan gurcharan* (forest in which free grazing is allowed), *parigh* (unassessed waste land), *khájan* (salt marsh land), and *kuran*, assessed and unassessed.

"From the proposed Protected forests we anticipate that a considerable area of land will eventually be demarcated into Reserved forest. It will comprise so much of the Protected forest as is in excess of the area necessary for the exercise of forest privileges, and of that required by the Revenue Department for exchange for lands to be taken up

in forest blocks and for extending cultivation especially in the *tálukás* of Máhim and Dahánu. Where no demarcation has been made, but where it is clear that the numbers will have to be so divided, we have put the whole number into Protected forest for subsequent division into 'Reserved' and 'Protected.'"

The lists submitted by Mr. Jervoise were approved by Government Resolution No. 1110, dated 1st March 1879, and notified in the *Government Gazette*.

32. Shortly afterwards the following orders (Government Resolution No. 1482, dated 18th March 1879) were issued on the subject of *rán* :—

"The cultivators must undoubtedly have *rán* and it will be the duty of the Forest Officers to make arrangements accordingly. If a sufficiency of *rán* cannot be obtained from grass and fallen leaves, &c., the cultivators must be allowed, under proper supervision, to cut it in a portion of the Government forests. The Forest Officers must take every precaution to guard against the abuse of this necessary concession. Access to the reserves should be permitted in rotation, one portion at a time being entirely closed. The question of the exact proportion to be so closed should be left for settlement by the Conservator in communication with the District Officers."

33. In January 1880 on a representation from the Collector of Thána that people were put to great inconvenience by a prohibition issued by the Forest Department against the plucking of teak leaves (used by the poorer classes as a lining for their rice-bins and for thatching their houses) from Protected forests, Government ruled (Resolution No. 544, dated 31st January 1880) as follows:—

"As the people of Thána have been accustomed to the use of the leaves, Government would be glad that the Conservator should arrange to supply leaves to them, if possible, free of charge altogether, or at least at some very slight charge just enough to cover the cost of supplying them and no more."

34. It having been represented that the assignments of *varkas* land for *rán* made in 1875 in the Karjat *táluka* were insufficient, the Forest Demarcation Officer was, in Government Resolution No. 3709, dated 8th June 1882, directed to make additional assignments on the following conditions:—

(*a*) "No cultivation of any description whatsoever is permissible on the lands so assigned.

(*b*) "They must be held or abandoned with the rice lands to which they are attached.

(*c*) "No trees of any kind may be felled on the lands.

(*d*) "No occupancy right is granted over the lands.

(*e*) "The sole privileges granted are those of gathering the fruit of the trees, collecting fallen leaves, cutting grass and brushwood, and lopping for *rán* the trees other than the 18 reserved kinds."

35. Complaints had been made from time to time that considerable delay occurred in supplying people with the wood they required for agricultural purposes, and in Government Resolution No. 7544, dated 13th December 1881, Government expressed approval of a suggestion of the Collector of Thána that numerous depôts should be instituted for the sale of wood. Proposals for the establishment of depôts in certain *tálukás* as a tentative measure were accordingly submitted and were sanctioned in Government Resolution No. 587, dated 23rd January 1883, although doubts were expressed whether the number of depôts recommended was sufficient. The following extracts from that order show the wants which the depôts were intended to meet:—

"It is probable that under the depôt system the requirements for fuel of most of the residents in villages which have no unclosed forests will be conveniently supplied.

"It is understood that departmental arrangements will be made for the supply from the depôts of wood for agricultural implements to cultivators who are not residents of forest villages, that the residents of forest villages will retain, subject to proper supervision, the privileges hitherto enjoyed by them in the unclosed forests of their villages, and that the arrangements then in force for the supply of timber to the public will be continued."

36. In October 1882 a Committee of the following officers:—

The Collector of Thána,
„ Conservator of Forests, N. C.,
„ Forest Settlement Officer, Thána,
„ First Assistant Collector, Thána,
„ Divisional Forest Officer, N. Thána,
„ Divisional Forest Officer, S. Thána,

was assembled at Thána to consider the best arrangements for the conservation of the forests and for the supply of the forest produce required by the people. The report of the committee which was forwarded with the Memorandum of the Commissioner, N. D., No. 1348, dated 5th April 1883, contains the following recommendations:—

(1) "All hill ranges and large forest blocks should be constituted Reserved forest, and not be divided into Reserved and Protected forests as at present, as the wants of the people can be better met when the entire area of the more important forests is worked under one system and properly conserved and blocked.

(2) "Only such detached hill numbers, of sufficient area, as may be so situated as to come conveniently within the limits of a forest beat should be retained as Protected forest.

(3) "Grazing should be allowed free in the unclosed portions of Reserved forest blocks to forest villages for a fixed number of cattle, and cattle belonging to persons not being cultivators in forest villages should only be admitted to graze on payment of fees.

(4) "*Ráb* should only be permitted under the following restrictions: no cutting or lopping of trees to obtain materials for *ráb* should be allowed, but the cultivators should be permitted to collect dead leaves, grass and reeds in the unclosed portions of the reserves, and the Forest Department should provide them with facilities for procuring at conveniently situated depôts such additional supplies of materials for *ráb* as they may require on payment of a fixed and very moderate price.

(5) "The inhabitants of forest villages should be permitted to take free of charge dead and fallen wood for firewood from the unclosed portions of the reserves, but the inhabitants of other villages should be required to obtain from the wood depôts started by the Forest Department any supply of fuel that they may need in addition to what they can procure from their own cultivated and *varkas* lands.

(6) "The inhabitants of forest villages should be allowed to take free of charge leaves from the unclosed portions of reserved forests for the construction of corn-bins and for the thatching of their houses, the leaves being taken at a fixed season; but the inhabitants of other villages should be required to obtain from the depôts any leaves they may want for such purposes.

(7). "The villagers should be allowed to gather, free of charge, wild fruits, roots and other minor forest produce in the unclosed portions of the reserved forests."

Government in their Resolution No. 3829, dated 18th May 1883, approved of proposals (1) and (2), and remarked:—

"The result, however, will be, and is intended to be, a material curtailment of privileges, and it will be necessary to take care that privileges now enjoyed are not stopped too abruptly so as to inflict hardship and cause complaint."

The privileges recommended under the proposals (5), (6) and (7) were also sanctioned provisionally. As regards the last, *viz.*, the privilege of taking wild fruits, &c., it was directed that "the Government right to *hirda* nuts should be reserved," and in a subsequent order (No. 7580, dated 10th October 1883), it was directed that *mowra* flowers should be strictly reserved. As regards grazing, the plan recommended by the Committee was not approved, and it was ruled that "pending the issue of orders on the reports of the Forest Settlement Officer on each *táluka* the existing arrangements should continue in force." The proposals relating to *ráb* (4) were provisionally approved, and it was ordered that "as regards *ráb* the same privileges may be granted to forest villages in Thána as have been sanctioned in Kolába," which are thus described in Government Resolution No. 1203, dated 14th February 1883.

"It will, in the opinion of His Excellency the Governor in Council, suffice if the cultivators in forest villages are allowed to cut and collect for *ráb* for their own use in the Government forests free of charge grass, reeds, dead leaves, the ten classes of shrubs enumerated by the Forest Settlement Officer, and generally all brushwood of no value for other purposes. This privilege may be exercised only in the unclosed portion of the forest, except when the Forest Department officers consider that it can be permitted without injury in the closed portion also. The lopping of trees cannot be allowed, nor is there any reason why the inhabitants of villages in which no lands are included in forests should be permitted to take *ráb* materials from the Government forests. The cultivators in the latter class of villages must procure their *ráb* from their own *varkas* or other lands: they clearly have no claim to collect it in Government forests. In the case of the forest villages there is in the opinion of the Governor in Council no objection to allowing the cultivators of a village to obtain the materials the cutting of which for *ráb* is sanctioned from any part of the unclosed area of the forest block in which are included the forest lands of their village."

In paragraph 13 of the Resolution it was observed:—

"It must be distinctly understood that the orders passed on the proposals of the Forest Conference are purely provisional. No final instructions regarding the privileges to be permitted in the Government forests can be issued pending the receipt of the detailed report and recommendations of the Forest Settlement Officer for each *táluka*. It is for the Forest Settlement Officer to adjudicate on all claims preferred to rights, and the orders now given cannot be regarded as affecting those rights if proved to exist."

37. A second conference regarding forest matters in Thána was held in October 1883, and the report drawn up by the committee was disposed of by Government Resolution No. 8783, dated 29th November 1883.

The following Circular regarding *ráb* proposed by the Committee was approved :—

"Inhabitants of forest villages are permitted to go into all forests, Reserved or Protected, to cut grass (except when the grass has been specially reserved and sold by auction) and reeds, gather leaves (other than those of *tembhurni, palas* and *apta*), the shrubs known as *korinda, ukshi, dháiti, kálákudi, amni, kavni, phángli, shemti, karvati* and *kuda*, and other brushwood. This permission extends from 1st December to 31st March.

"In forests gazetted as protected they may lop trees other than those of the 25 varieties specified * in the margin. Only side-branches may be lopped.

* Teak, blackwood, bamboo, *ain, hed, nána, kalam, asána. bibla, khair, shivan, tivas, koshimb, dhávda, jambu, kinjal, kinai, bonda, hoomeh*, bábul, *moho*, mango, tamarind, *jambul* and *phanas*.
In their Resolution on the report Government ordered that *tembhurni, palas*, and *apta* should be added to the list of reserved trees.

"Inhabitants of non-forest villages who cannot obtain sufficient *ráb* from their *varkas* holdings, must procure the additional quantities required, (*a*) by purchase from private dealers; (*b*) by obtaining passes from the Forest Department allowing them to remove as much as they require at their own expense from the compartments of the forests that are specially opened for the purpose.

"Brushwood only of the kinds that will be specified from time to time by the Divisional Forest Officer will be allowed to be cut, and the period for cutting will be from 1st December to 31st March."

The following extracts from the Resolution of Government specified above show the nature of the other recommendations made by the committee and sanctioned by Government :—

"The contract system is stated to have proved a failure, being injurious to the interests both of Government and of the villagers. In lieu of it the committee recommend the adoption of the system under which fallen firewood may be taken from the Government forests by private persons on the payment of prescribed fees under passes. Government are willing to sanction this as an experimental measure. The scale * of fees suggested is sanctioned, as also are the proposals regarding the removal of heavy dead timber by departmental agency only, and the system under which bamboos and *kárvi* may be cut and taken and the payments[1] to be made for those forest products."

* One anna *per* a man's head-load. Nine pies *per* a woman's head-load. Six pies *per* a child's head-load. One rupee for each ordinary one pair bullock-cart. Two rupees for each large double bullock-cart. (In the case of the Bassein Kolis the rate of a cart-load of firewood was subsequently reduced from a rupee to six annas by G. R. No. 4977, dated 20th June 1884).

"In deference to the strongly expressed opinion of the committee the Governor in Council is willing to reconsider the decision* previously arrived at that wood should be sold at the Government depôt only to cultivators possessed of a certificate of poverty granted by the *mámlatdár*. As recommended by the committee the rule henceforth should be that any *bonâ-fide* cultivator may be allowed to purchase at a depôt—which should be the depôt for the circle in which he is residing—wood of a value not exceeding Rs. 10 in every year. The old system of free grants of wood was only recently abolished by the Government after the fullest consideration and most careful deliberation, and the Governor in Council is not prepared to revert to a practice which was found to be productive of fraud and abuse."

*Government Resolution No. 7580, dated 10th October 1883.

38. On a representation from the Collector of Thána, Government in paragraph 7 of their Resolution No 9443, dated 22nd December 1883, modified a part of the orders described above as follows :—

"As regards the question of the imposition of fees on head-loads of firewood removed from the Government forests, the Governor in Council would remark that the orders passed by Government simply sanctioned the proposals on this point which were stated to have been unanimously agreed upon by the recent Forest Conference. Government are however willing to grant to the inhabitants of the Thána District the same previleges in respect of the collection of dead wood as have been accorded to the people of the Panvel *táluka*. Those privileges are that the inhabitants of forest villages may collect dead wood free of charge for fuel for their

| | Rs. | a. | p. |
|---|---|---|---|
| [1] *Kárvi*, per head-load ... | 0 | 1 | 0 |
| *Jhitás* ... ... ... | 0 | 1 | 0 |
| *Tokar* (large bamboo) per one hundred | 4 | 0 | 0 |
| *Bundhi* (small bamboo) per one hundred | 2 | 0 | 0 |

own use in all the Government forests save the closed portions of the reserved forests, and even in those portions when the Forest Officer sees no objection, and that the Thákurs, Kátkaris, Várlis and other wild tribes may collect and remove dead wood free of charge for their own use or for sale, subject to the condition that the privilege is liable to be revoked if found to be abused."

39. To prevent abuses which were apprehended as likely to result from the grant of the privilege of taking dead wood the following order (No. 2638, dated 27th March 1884,) was issued:—

"Where it is found that live trees are being girdled or otherwise injured by the villagers or wild tribes with a view to causing their death and conversion into dead wood, active efforts should be made to detect the offenders and bring them to justice. If these efforts prove unsuccessful all privileges in respect of collecting dead wood should be stopped in the Government forests of the villages where trees are thus being destroyed. Public warning to this effect should be given generally by both the Revenue and the Forest Officers, but no order withdrawing the dead wood privileges in the forest lands of any village or villages should be issued by the Divisional Forest Officer without the assent of the Collector."

40. In Government Resolution No. 5880, dated 20th July 1885, Government ordered that the fees for timber and other forest produce, including bamboos, leviable under the orders quoted above should as a temporary measure be reduced to the scale which was in force before 1883, but that "the benefit of the reduced rates need not be allowed to wood-dealers or purchasers for export." In the same Resolution Government approved of a proposal made by the Acting Collector of Thána that "steps should be taken to close against the traders those forests where the supply of dead wood is only sufficient for the wants of the local community, and that fellings should be substituted for depôts." It was further ruled that no further orders were necessary on the subject of the privileges of the wild tribes who were already "permitted to obtain from the forests free of charge such wood of the ordinary sorts as they need for the construction and repair of their dwellings." Government also directed that "the inhabitants of non-forest villages must pay for grazing, but the fees charged should be very low at first."

41. The orders above quoted are in force in all the *tálukás* of the Thána District in which a forest settlement in accordance with the provisions of the Indian Forest Act has not yet been carried out. As regards the *tálukás* in which the settlement has been effected and sanctioned by Government, special orders in regard to privileges have been passed, which supersede all previous orders on the subject. These *tálukás* are Sálsette, Bhivandi, Karjat, Kalyán and Bassein. With very few exceptions the only rights which the Forest Settlement Officers have found to exist in the forests of these *tálukás* are rights of way, of access to water, and of approach for worship to shrines and idols situated within forest limits. The privileges allowed by Government are shown in the following extracts from the Resolutions passed on the Forest Settlement reports:—

*Grazing.*—"The inhabitants of forest villages, other than professional graziers may be allowed to graze their cattle free of charge and also to cut free of charge for their own use grass in the unclosed compartments of the Reserved forests (and in cases where the Divisional Forest Officer sees no objection, in the closed portions also), and in the whole Protected forests. This privilege should be extended to persons who, though not actually residing in the villages, own lands therein, the only restriction imposed in their case being that the privilege should be limited to cattle used for agricultural and domestic purposes, the property or persons who are not professional cattle-dealers."

"Inhabitants of non-forest villages and Dhangars may be allowed to graze their cattle in the unclosed portions of the Government forests, as also in the closed portions with the permission of the Divisional Forest Officers, on payment of the prescribed fees. The grass and grazing on the old *gurcharan* lands included in forest should not be sold by auction by the Forest Department where such a course would unduly interfere with the sufficient supply of the requirements of the forest villagers in respect of grazing and grass for their cattle and for *ráb*."

*Ráb.*—"In the Reserved forest area the inhabitants of forest villages should be allowed to take free of charge for their own use from the unclosed portions, and with the permission of the Divisional Forest Officer from the closed portions, grass, reeds, leaves (other than those of *tembhurni* and *apta*), the ten classes* of shrubs specified in the margin, and generally all brushwood of no value for any other purpose. The Reserved forest block should be divided into a number of compartments of which one or more should be cleared yearly, the timber being felled for sale, and then closed for a period of years, cuttings being thus made in rotation and the block being worked on scientific principles. The inhabitants of forest

* *Korinda, ukshi, bakali, kuda, kálá-kuda, gometi, kevni, torni, bhor jámbhul,* and *bhokad.*
In the Resolution No. 2988, dated 9th April 1884, passed on the Forest Settlement Report of the Sálsette *táluka* it was ordered that the shrubs known as *hátrun, kudeh,* and *mastode* should be added to the ten specified varieties.

villages in which the block is situated and of adjacent villages in whose forest blocks no cuttings were that year being effected should be permitted to cut and remove not only the brushwood, &c., in the compartment in which the trees were being felled, but also both before and after the trees had been felled, to lop and take all the twigs, branches, and small boughs not required by the Forest Department for manufacture into fuel. Care should be taken to give the villagers timely notice beforehand when and where the cuttings will take place, and so to arrange the date of the cuttings that it shall as far as possible coincide with the time for preparing and burning the *ráb*. When a working plan is elaborated similar privileges may be allowed in the compartments or areas where fellings are made in the year.

"In respect of *ráb* privileges in the Protected forests, the inhabitants of the villages in which such forests are situated may, in addition to cutting reeds, grass, brushwood, &c., lop for *ráb* the side-branches, but not the leading shoot of all trees growing in the Protected forest, except those * marginally noted. The lopping of *ain, dhávda, bonda* and *nána* (which are held in special favour for *ráb*) should be allowed.

* Teak, blackwood, *tivas*, mango, *khair*, *kalam*, *bibla*, *asána*, *koshimb* and *hed*.

"These privileges should be extended to a non-resident holder of land in a forest village, who may take from the forest lands of the village materials for *ráb* for his land situated in the village but not for any land he may hold in any other village.

"The privileges thus accorded to the inhabitants of forest villages cannot be extended to the inhabitants of non-forest villages. If these are unable to obtain from the *varkas* lands comprised in their holdings sufficient supply of materials for *ráb* they must procure what they require by purchase from private dealers or from the Forest Department."

*Firewood.*—"The inhabitants of forest villages may be permitted to cut wood for fuel in the unclosed portions of the Government Reserved forests, and when the Divisional Forest Officer perceives no objection in the closed portions also, and in all the Protected forest area. The fuel so collected is to be for their own use, and not for sale. Inhabitants of non-forest villages have no claim to collect firewood in lands beyond their own village limits, and must obtain any firewood they may require beyond what their own lands can supply by purchase either from the Forest Department or from private wood-dealers. When cuttings are being made in the Government forests, due and timely notice of the fact should be given in the non-forest villages and persons should be encouraged to buy there any wood which they may require for fuel or other purposes.

"Smaller forest blocks where the dead wood supply is only sufficient to meet the wants of the inhabitants of the adjacent forest villages should be closed to dealers and the forest tribes of other parts of the *táluka* or of other *tálukás*."

*Collection of Fruits and Minor Forest Produce.*—"This privilege may be granted free to the inhabitants of forest villages, and may be exercised in the closed as well as the unclosed compartments. *Hirdás, shikekái, behadás* and *mowra* flowers should be strictly reserved to Government. The only other articles of minor forest produce which should be reserved to Government are the leaves of the *apta* and *tembhurni*. The inhabitants of forest villages should be allowed to collect the leaves of the *palas* for their own use from the Protected and open Reserved forests. They should also be allowed to take free of charge for their own use leaves from teak trees growing in Protected forests and in occupied numbers, and from the teak trees felled within the area of Reserved forests that may be set apart for felling operations each year."

*Kárvi and Thorns.*—"In Protected forests forest villagers may be allowed to remove thorns and *kárvi* without passes. Government also see no objection to allowing the taking without a pass of *kárvi* from the unclosed portions of the Reserved forests by forest villagers. Thorns may be taken by the inhabitants of forest villages from the unclosed parts of Reserved forest on passes, for which no fees should be charged. The total destruction of thorns would be very injurious to the forests and militate against the growth of young trees. It is necessary therefore to place some restriction on the cutting and removal of thorns, and this can best be effected by allowing them only to be taken on passes which should be freely and without delay granted to applicants in such areas and to such extents as may seem advisable to the Divisional Forest officers."

*Earth and Stones.*—"Villagers should be allowed to take free of charge earth and stones required for purely agricultural purposes from Protected forests, and with the previous permission of the round guard in charge from the unclosed portions of Reserved forests."

*Wild Tribes.*—"The Thákurs, Kátkaris, Várlis and other wild tribes should be granted all the privileges accorded to the inhabitants of forest villages, and in addition should be allowed to cut grass, and collect and remove dead wood for sale free

of charge, being however warned that the last-mentioned privilege will be revoked if it is found to be abused by them by the destruction of live-wood one season to ensure a large supply of dead wood in the next. They should also be allowed to collect the leaves of the *palas* for use and sale. Their services should be fully utilised by the Forest Department in the collection of the reserved minor forest-products such as *hirdás, mowra*, &c. The special additional privileges of the wild tribes mentioned above need not be given in Sálsette where the Forest Settlement Officer considers them to be unnecessary. No objection exists to the taking by the wild tribes of wood of the common descriptions for the construction of or repairs to their huts."

*Fees on Firewood and Bamboos.*—"The rates for firewood and bamboos, sanctioned by Government on the recommendation of the Thána Conference of 1883, should be reduced to the scale in force prior to their enhancement in that year, it being understood that the benefit of the reduced rates is only to be enjoyed by persons residing in the *táluka* taking the wood, bamboos, &c., for their *bonâ fide* consumption, for agricultural purposes or for a local industry. Dealers will not be entitled to the benefit of the change. No fixed rates at which wood and bamboos should be sold to wood-traders need be determined, but it may be left to the officers of the Forest Department to arrange with the dealers on ordinary trade principles the terms on which forest produce is sold to them from time to time. The Forest Department should arrange to provide increased supplies of miscellaneous timber and of fuel by departmental cuttings when the fellings can be disposed of partly by sale at the reduced rates and partly by auction if the latter course is found advisable."

B 1417—6 M

To

THE PRESIDENT AND MEMBERS OF THE FOREST COMMISSION,

THÁNA.

The Memorial of the undersigned Proprietors of freehold villages with forests attached thereto in the *táluka* of Salsette, *zilla* Thána, in the Bombay Presidency.

RESPECTFULLY SHEWETH :—

That Your Memorialists hold certain villages in Sálsette *táluka* of the *zilla* of Thána with extensive forests attached thereto under three separate indentures of conveyances, respectively dated 22nd September 1847, 25th January 1819, and 14th December 1825. These indentures were executed by the late Honourable the East India Company, by which the proprietary rights to the said villages and forests became vested in Your Memorialists. The particular clauses contained in each of the said three indentures respecting Your Memorialists' rights over these villages and forests are hereto annexed for your perusal and marked A, B and C respectively.

2. That the Act No. VII. of 1878 was passed with a view to amend the law relating to Government forests as contained in Act No. VII of 1865. This new Act was extended to private villages and forests in the Bombay Presidency, although the old Act did not apply to the same ; because as Your Memorialists submit the local forest rules and provisions of the Penal Code in respect thereof were considered sufficiently wide in their scope to prevent theft, &c., in Government forests in that Presidency.

3. That Your Memorialists therefore made a representation to the Government of Bombay and to the Government of India, praying that the new Forest Act, No. VII of 1878, might not be extended to Your Memorialists' villages and forests inasmuch as it contained certain sections and provisions inconsistent with and in direct violation of the said covenants hereto annexed and marked A, B and C.

4. That Your Memorialists crave leave briefly to notice the sections and provisions of the New Forest Act, No. VII of 1878, which affect the rights enjoyed by them without interruption for more than sixty years :—

(*a*). Chapter 6, Section 35 of the New Forest Act authorizes the local Government, by notification in the " Official Gazette " to regulate or prohibit in any private forests or waste land—

(1). The breaking up or clearing of land for cultivation.

(2). The pasturing of cattle.

(3). The firing or clearing of the vegetation.

(*b*). Section 36 authorizes the local Government to place such private forests or waste-lands under the control of a Government officer in case of neglect of, or wilful disobedience to, any regulation or prohibition under the said Section 35. But Section 37 states that though the Government has the option of acquiring any forests or lands at any time, the owner of such forests or lands cannot require Government to take them over until three years at least shall have elapsed from the date of the Notification under Section 35.

(*c*). Your Memorialists submit that instead of imposing such restrictions and prohibitions as are mentioned in the said Section 35 and then viewing any breach of these restrictions in the light of disobedience and placing such forests or lands under Government management for three years on trial, the Government should take up such forests and lands at once under the Land Acquisition Act. Your Memorialists' reasons for submitting this proposal are these :—Their forests are situated on hilly ground and in valleys that spread over an extensive area, and are therefore not so situated as to enable Your Memorialists to prevent Kátkari and other wild tribes residing in the neighbourhood from committing trespass and breaking the forest regulations mentioned in Section 35. This trespass might be construed by Government into disobedience of the provisions under the said Section 36, and thus make it lawful for the Government to place such forests under the control of their officers. For the said Act makes no distinction between disobedience on the part of the owners of the forests and that on the part of transient offenders.

5. That Chapter 8, Section 41, empowers the local Government to make rules to regulate the transit of timber and other forest produce, and in accordance therewith certain rules were published on 12th August 1880. Your Memorialists beg to submit the following observations on those rules, so far as they are proved to have affected Your Memorialists' interest, *viz* :—

(*a*). That when timber, &c., is conveyed from private forests and lands by the prescribed routes, the total expenditure on account of transport charges, duty, &c., in most cases has exceeded the proceeds of sale of such timber.

(*b*). That in the case of such perishable articles, as flowers, leaves, fruits, &c., no profit has been obtained by conveying them by the fixed routes, in consequence of the delay which must necessarily occur in issuing the passes and in examining the goods at the Government depôt.

(*c*). That the 3rd rule enacts that no forest produce shall be moved without a pass. The Indian Forest Act defines forest produce as including all things specified in the said Act when found in or brought from a forest (*vide* Chapter I, Section 2). Your Memorialists' villages contain sweet and salt batty-ground, garden ground, *bhát* or grass ground, &c., in addition to their forests. As trees of various kinds are found growing on such lands, a pass is likely to be demanded by forest officers for the removal of the produce from these lands. Disputes of this nature are sure to arise every day. This is calculated to cause much unnecessary trouble, delay, and great expense to Your Memorialists. The word "forest," being not defined in the said Act, makes it difficult for us to prove that these articles are not forest produce.

(*d*). That Your Memorialists' forest produce will have to be conveyed to the depôt named by the Forest officer, and it will be necessary to obtain his permission for depositing such produce at such depôts and for removing the same therefrom, and to pay such fees as may be fixed by the Government for the above purposes.

(*e*). That Your Memorialists are prohibited from marking their timber without the permission of the forest authorities; and that Your Memorialists' private property-mark is required to be registered every year, and a fee is exacted for such registration.

6. That all this tedious and elaborate process necessarily entails extra expense and trouble on Your Memorialists. They therefore submit that the course adopted by Government for deriving revenue from the produce of their forests and land by the levying of such duties as fees for passes and for registering private property-marks, &c., is unjustifiable and in violation of the terms of the covenants contained in the respective indentures above referred to, which exempt Your Memorialists from taxation or assessment of any kind whatever. If the object of the rules is simply to control timber and other forest produce in transit as the heading of the said Chapter 8 indicates and not to derive revenue therefrom in the shape of fees for passes, &c., it can easily be attained by permitting Your Memorialists to issue their own passes or by granting to them pass-books from the Forest Department without demanding any fees therefor, and without requiring Your Memorialists to obtain separate passes on payment of fees for every cart or boat-load.

7. That Your Memorialists have, as anticipated by them, experienced almost all the evils attendant on the working of the said rules ever since the month of November 1882, when the Forest Department, for the first time, began actively to put the forest rules in force. Your Memorialists beg to enumerate here shortly some of those evils:—

(*a*). A sufficient number of pass-books was not given by the forest authorities when applied for; but that every time the contractor had to remove a cart or boat-load of forest produce, he had to do so under the cover of a separate pass. In order to obtain this pass the contractor had to go on each occasion to the depôt however inconveniently it might be situated. He had often to go even so far as Thána, which is a good distance from Your Memorialists' villages. This procedure subjected him to heavy expenses and extreme inconvenience and caused needless delay.

(*b*). When pass-books were given to the contractor, the period therein fixed during which they could be used was generally short. The contractor was not in most cases able to remove the forest produce within the prescribed time, and the result was that at the expiration of such period, it was necessary for him to renew the pass. This caused extra trouble, expense and delay as it could only be effected at Thána. It often happened that the contractor had to stop his work until he could get the pass-books renewed in time.

(*c*). Hundreds of bullocks are employed by contractors for the removal of timber, &c., from forests, because this mode of removal costs less than the removal of produce by carts, and as every bullock-load requires a pass for its removal, it becomes entirely inpracticable to work the contract at any profit.

(*d*). The depôts are established at places situated out of the way and at great distance from the forests, and if the forest produce has to be carried there either to obtain a pass or for scrutiny or other purposes mentioned in the said rules, it causes a good deal of expense, inconvenience, delay, and also loss in the case of perishable articles.

(*e*). As the depôts are always closed at night and also in the rainy season, passes cannot be had at such times. Further, by this arrangement the owner or the contractor of the forest produce is left entirely to the mercy of the depôt man.

8. That there are several other difficulties and inconveniences to which forest owners and contractors are subjected in consequence of the enforcement of the aforesaid rules, and Your Memorialists beg to observe that if these rules are worked with full force and rigour they are apprehensive that their properties would suffer considerably in value.

9. That under these circumstances Your Memorialists pray that the Commission will, on a persual and consideration of the facts and reasons herein set forth, recommend to His Excellency in Council the adoption of such measures relating to their forests as may be consistent with the terms contained in the aforesaid several conveyances. They further pray that private forests or lands when required for public purposes should be taken up at once under the Land Acquisition Act instead of being acquired under the protracted process laid down in Chapter 6, Sections 35-36 and 37 of the Indian Forest Act No. VII of 1878, which is only ruinous to the proprietors of such forests or lands; that the word "forest" should be clearly defined so as to leave no room for future controversy, and that the forest rules should not be made applicable to Your Memorialists' forests and lands.

And Your Memorialists in duty bound shall ever pray.

BYRAMJEE JEEJEEBHOY.
CURSETJEE HORMUSJEE DADYSHET.
AHMEDBHOY HABIBBHOY.
VINAYECK PANDURANGJI.

*Bombay, 24th November 1885.*

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A.

(*Extract from the Indenture, dated 22nd September, 1847.*)

"They, the said East India Company, have granted, aliened and released, and by these presents do grant, alien and release to the said Cursetji Cowasji Banaji, his executors, administrators and assigns all those seven villages situate, lying and being within the Island of Sálsette, respectively called or commonly known by the names of Mauzes, Goregaum, Paharee, Poiser, Mogarrey, Hissewray and Bandooly, and all the arable meadow, pasture and wood-land, hills, jungle and waste ground lying and being within the boundaries of the said villages down to the present lowest mark of low-water mark at spring-tides, (except as to the village of Paharee, the land held by Cursetji and Jehangir Ardeseer in such last-mentioned village) together with all and singular houses, out-houses, edifices, building, tanks, trees, wells, barns, stables, coach-houses, cottages, yards, gardens, mines, minerals, quarries, woods, underwood, coppices, jungles, and the ground and soil thereof, mounds, fences, hedges, ditches, ways, waters, water-courses, liberties, privileges, rights, easements, profits, commons, emoluments, hereditaments and appurtenances, whatsoever to the said villages, lands and hereditaments belonging or in any wise appertaining or lying or being within the boundaries of the said villages, or with the same or any of them respectively, now or at any time heretofore demised, leased, held, used, occupied, or enjoyed or accounted, reputed, deemed, taken or known as part, parcel, or member of them or any part of them or appurtenant thereunto."

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B.

(*Extracts from the Indenture, dated 25th December 1819.*)

"They, the said United Company, have granted, bargained, sold, aliened, released, and confirmed, and by these presents do grant, bargain, sell, alien, release, and confirm unto the said Cursetji Ardeseer and Jehangir Ardeseer as their own exclusive right in their actual possession, tenancy and occupation now being and to their heirs and assigns, all those several villages and pieces and parcels of land."

"That for and notwithstanding any right, title or interest which they, the said United Company, now have or claim of taxing and assessing certain brab and other trees on the Island of Sálsette, they, the said Cursetji Ardeseer and Jehangir Ardeseer, their heirs, and assigns shall and may have hold and enjoy all and singular the brabs and other trees and all other the produce of and kind whatsoever now growing or which may hereafter be grown or produced on the said pieces or parcels of land, hereditaments and premises hereby granted and released, or intended so to be free and clear of and without being subject to any taxation and assessment whatsoever.

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C.

(*Extract from the Indenture, dated 14th December 1825.*)

"They, the said United Company, have granted, bargained, sold, aliened, released, and confirmed, and by these presents do grant, bargain, sell, alien, and confirm unto the said Dhackji Dadaji as his own exclusive right in his actual possession, tenancy and occupation now being and to his heirs and assigns for ever all those several villages and pieces or parcels of grounds. That for and notwithstanding any right, title or interest which they, the said United Company, claim of taxing and assessing certain brab and other trees on the Island of Sálsette, he, the said Dhackji Dadaji, his heirs and assigns shall and may on paying the said yearly rent have hold and enjoy all and singular the brab and other trees and all others the produce of any kind whatsoever now growing or which may hereafter be grown or produced on the said pieces or parcels of land, hereditaments and premises hereby granted and released, or intended so to be, free and clear of and without being subject to any taxation or assessment whatever."

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To

THE SECRETARY,
Forest Commission.

SIR,

With reference to the Government Resolution No. 5977, dated 24th July 1885, Revenue Department, and the notification under the signature of the chairman, dated 27th August 1885, inviting petitions, memorials and complaints, we beg humbly and respectfully to submit the accompanying complaint in ten copies according to the requirements of the said notification, for the consideration of the Commission.

We regret that the complaint is somewhat lengthy. But the extreme importance of the subject of Forest Conservancy, the varied and complicated nature and character of our valuable rights to and over the lands and jungles of the District of Thána, and the stern demands of the duty we owe to ourselves and to the public at large, compel us to lay before the Commission every useful information we could obtain, with our own observations thereon, with a view to assist the Commission, in some measure, to arrive at a correct decision on the various intricate branches of the vast subject of their inquiry.

In the course of the inquiry a number of documents shall have to be put in, and a number of witnesses shall have to be examined, in proof of the rights we assert, and in proof of the other allegations contained in the aforesaid complaint. Such of these as are in our power to produce before the Commission we will surely produce; but in respect of such of them as are beyond our reach we will have to ask the assistance of the Commission, which we hope and trust, will be readily granted to us. As we do not yet know the exact procedure the Commission will follow in conducting the inquiry, we do not consider it necessary to point out the manner in which we propose to put our case before them, and would, therefore, leave it to be settled after the Commission formally begins the inquiry.

Hoping that due intimation will be given to us of the day on which our complaint will be taken up for investigation, and that every facility will be afforded us to fully and clearly place the merits of our case before the Commission and trusting that we would be excused for thus approaching the Commission with a lengthy complaint, which, we doubt not, the Commission will carefully read.

We beg to remain,
Sir,
Your most obedient and humble Servants,

KA'SHINATH VISHNU PHADKE.
CHINTA'MAN SAKHARAM KARANDIKAR.
LAKSHMAN BALLAL JOGALEKAR.
LUKSHMAN BALLA'L BHAVE.

*Thána, October 1885.*

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## COMPLAINT.

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### PART I.—*History.*

The Government Resolution instituting the Commission says: "the Commission will be placed in possession before they begin their inquiries of a clear statement of the present regulations concerning forest administration, showing what are the rights of Government and the privileges enjoyed by the rayats." Before we proceed, therefore, to enter upon the actual grounds of the complaint the ends of justice make it not only desirable but absolutely necessary that we should place before the Commission a brief statement of the past history of the rayats' forest rights, so that on reading that statement with the light of ours, the Commission may better understand the past and present position of the rayats, in reference to the forest administration of the district of Thána. Government would appear to be reluctant to use the word "right" and therefore make use of the term "privileges" with respect to what according to them belongs to the rayats, but we do not believe that in stating our case to the Commission we must needs be bound by the guarded phraseology of that Resolution. The marked language of the Resolution throughout makes it incumbent on us to fully bring to the notice of the Commission all the various, though gradual, encroachments upon the rights of the rayat until eventually the encroachments developed into what are called the "present Regulations," lest the question may be put before you in a

one-sided manner and both the sides of the picture the Commission may not have the opportunity of seeing and deciding upon. With these remarks we commence the history portion of he complaint of course enunciating it with principles which are the text and guide of our rights.

' *Optimus interpres rerum usus.*—(The best interpreter of things is usage) is a well-known maxim of Law. The principle upon which the recognition of customs depends is thus explained by Mr. Elburling "Civil society is not a mechanical machine formed and regulated by certain unchangeable and written Laws, but a moving and continually changing connection of individuals and families. . . . . As long as there exists no necessity for an interference . . . the Government need not and generally does not interfere by making any enactment. The usages form themselves, alter and amend themselves, as the state of things require." Elburling is indeed a jurist of note, but Manu a still greater authority on Indian subjects, one of the wisest and ablest of the Hindu Law-givers, says "From the people he (the king) must learn the theory of agriculture, commerce and other particular arts." Manu hereby evidently means that the people are the best judges on these points, and their convenience, their custom and their opinion is, therefore, the criterion of deciding whether the administration of Forests, Agriculture or the like, is good or bad. One single individual, let him be the very king, is not justified in acting against the wishes and wants of the people in such matters.

Another great authority, we mean Mr. Broom, observes as under :—

"The Law of England whether statutory or customary professes to act in accordance with and to be regulated by certain great fundamental principles. It professes to act and adjudicate conformably to the Law of Nature, the Law of God, to common sense, to legal reason, justice and humanity."

Furthermore he says: "the Law of Nature says Blackstone, being coeval with mankind is superior in obligation to any other. No human Laws are of any validity if contrary to this. . . . We need then scarce hesitate to adopt the expressions of Willes J. in *Millar vs Taylor* . . . that principles of private justice, moral fitness, and *public convenience*, when applied to a new subject make common Law without a precedent, much more when received and approved by usage.

In conformity with these great Fundamental principles our gracious Sovereign the Queen-Empress, when she assumed the Government of this country, pledged her Royal word to the effect that all our legal rights and customs will be scrupulously maintained. She in Her august proclamation says, "We know and respect the feelings of attachment with which natives of India regard the lands inherited by them from their ancestors; and we desire to *protect them in all rights connected therewith* subject to the equitable demands of the State; and we will in generally framing and administering the Law due regard be paid to the ancient rights, usages and customs of India."

It is a matter of some doubt as to what reliable source to attribute the common belief arising among the officers of Government in the Forest and other Departments that teak trees wheresoever they may be growing are royalties; for, so far as our limited researches extend there appear to be no records available which would in the least lead to this conclusion either in the *daftars* of this or of the former Governments. As to the other trees too it is a matter of great difficulty to prove by any conclusive written evidence that the rayats have ever been disturbed in the enjoyment of their rights over them until very recently when an unscrupulous, unjust and illegal scheme of high-handed conservancy was inaugurated by Government at the mischievous suggestions of its officers to the great injury, annoyance and oppression of the possessors of those rights. But as we conceive, this is merely an act of unauthorized origin, unprecedented and unwise, done by those who were only actuated by official zeal, it would naturally have no weight with you, and you would not consider it enough to determine or extinguish the rights which the rayats had universally possessed before its inauguration. We would, therefore humbly refer the Commission to those antique times to which the rayat's enjoyment can be traced on the authority of the Government records themselves, and to those old times of happy memory from which consecutively they have been in the enjoyment thereof from generation to generation undisturbed and unchallenged up to the time it entered the fertile head of some Government officer or other that the Forests of the Presidency might be turned into a profitable source of revenue, and the rights of the people trampled upon in doing so.

To begin at the beginning the first available document in chronological order from which facts can be gathered in proof of our rights, is the Records of what is commonly known as the "Tipnis case" being special appeal No. 1 of 1874 in the High Court (eventually withdrawn by Government.) The only evidence produced in this case by the Collector to show that the Peshwa's Government treated teak trees as Royalty was contained in some documents obtained from the Poona *daftar*. These were extracts from accounts commencing from A.D. 1749 and ending with 1798, as also an order of the Peshwa passed on a representation from the *jamindárs* of certain *tálukás* complaining against an interference on the part of his officers with their jungle rights. The Peshwa's order as translated by Mr. Naylor in his letter No. 126 of 10th March 1875, so far as it is necessary for the pur-

poses of our contention, was "In the above *tarfs* the felling of teak has been *recently prohibited,* but there is a tax on the *varkas* land in the different villages, and if to meet the tax the jungle is cleared in order to make (cultivate the) *varkas,* teak trees must be cut down. . . ." This clearly shows that while only an attempt was being made by the Peshwa's officers on the felling of trees it was stopped at once and the felling rights continued to the rayats by the Peshwa's order. The order says that it was "*recently*" that felling had been prohibited, from which it follows that *before* that time of recent prohibition there was no prohibition at all. The attempted recent prohibition again was no sooner attempted than stopped. It is consequently clear beyond a reasonable doubt that no prohibition of any sort or description whatsoever existed to the felling of teak during the Peshwa's time. From these papers the learned District Judge of Thána, Mr. Coghlan, came to the conclusion that the right of royalty to these trees was *not* made out. So that while these papers on the one hand support the rayats' rights as to felling teak or blackwood, they on the other show, according to the District Judge's finding, the absence of Royalty over them on the part of Government.

Looking to the provisions of Regulation I of 1808 another instance can be noticed in which the tax on certain trees in the Sálsette *táluka* was given up. Section xxxvi., clause 18 of the said Regulation rules "At the same time, the extended new Tax on the trees . . . was given up throughout the Island by a Resolution of Government under date the 3rd of August 1801, as being found *unpalatable* to the inhabitants. This tax too was a "new tax" of a *recent* origin and was eventually given up. In old times, therefore, no tax existed.

On the 1st March 1824, Mr. Dunlop, Collector and Magistrate of the *zilla* of the Southern Konkan (which *zilla* as it was then constituted was subordinate to the Thána Collectorate) on behalf, and under the authority of the Honourable English Company issued a proclamation that . . . . "People may do what they please with trees they now have, and may hereafter produce. Government will not cause the slightest obstruction."

In the year 1831, the Collector of Thána in his letter No. 412, dated 31st October 1831, writes to Thomas Williamson, Esq., Secretary to Government, in these terms:—

"2nd. This *zilla* contains four Forests, two in the Principal Division, those of Sálsette and Tudil in the Ráyagad *táluka,* and two in the sub-division, those of Málvan and Suvarndurg.

"3rd. The Salsette Forest was planted in 1810, in the immediate vicinity of the town of Thána. The growth of the trees does not appear to have been in proportion to the length of time since the planting, from which it may be inferred that the hill land selected for the purpose is not favourable to this plant. . .

"4th. *Throughout Sálsette and also in most parts of the Southern Konkan* all teak trees, wherever growing, were considered the property of the State. The prohibition against cutting them in the Southern Konkan was removed . . . and Government gave up to the rayats all claim it might have in these trees.

"10th. Offers have been made to farm the privilege of cutting the timber of these Forests, and as I am of opinion that Government can otherwise derive no advantage from them, I would recommend that this mode be adopted."

From this it follows plainly that in the 1st place Government did not style anything as State Forest unless it was planted by Government themselves at their own expense and under their care as is expressively and forcibly the conclusion to be drawn from the language used in the letter; in the 2nd place even if Government did lay any claims to anything that was not planted by them it was simply to *teak* trees; and thirdly, it was not to *all the teak trees* growing wheresoever in the *zilla,* but only to those as grew in *Sálsette,* and most part of the Southern Konkan only. The most logical conclusion of all these statements by a responsible officer of Government made at a time when the conservancy system was not even dreamt of, is that no trees of any description whatever that grew on the soil of the present Thána *zilla* except Sálsette, were the property of Government but belonged absolutely to the people unreservedly and distinctly, and in Sálsette too what belonged to the Government was teak and nothing more. It would therefore be clearly an act of trespass on the part of Government to extend their claims to what did not belong to them under colour of right. This letter furnishes sufficient materials to wash out the effect of the High Court's ruling that Dunlop's proclamation was not made applicable to the Thána District. But with due deference to the Honourable Court's ruling we do not accept it as conclusive for reasons pointed out elsewhere. What we maintain is that even if we assume for the sake of argument that it was not extended to Thána, we say it does not tell unfavourably upon our right; for when there was no prohibition to the cutting of these trees as shown above in the Thána District there was no necessity for its extension thereto, its sole object being to withdraw prohibitions if there were any.

A very clear instance of a positive withdrawal of whatever prohibitions there may have existed during the former Government's time, (assuming for the sake of argument that they did exist) on the part of the British Government is found in Government letter

No. 775, dated 4th March 1839, in which the Governor-in-Council says, "the prohibition against the cutting of teak timber which existed during the Peshwa's time, was publicly removed on the accession of the British Government." Does this not make it pretty clear that nothing up to 1839 or still later till 1847 was ever taxed by the British Government? Then again the so-called *kolái* tax to which probably this Resolution refers has not been proved in any case and by any evidence of a clear and positive nature, notwithstanding anything that may have been said in the Pendse case for then this question was not at issue in direct terms, to have been levied by the Peshwa's Government. The Government do not, so far as we are aware, lay their finger on any bit of paper in proof of this tax. They say so because some officer in former times has said so and no further. If any such tax really existed it would have been very easy for Government to have produced in the several cases that were filed against them, documents from the Peshwa's *daftar* in proof of it, which they have not done. If any conclusion is therefore to be drawn from the fact of the Resolution under notice, that conclusion is that such a tax did not exist. Even if we assume that *kolái* did exist, it does not affect our rights in the least; for, as shown above, if there was any such or other tax, and for the sake of which any interference was caused by the Peshwa's officers, that interference and therefore naturally the tax, were introduced and withdrawn almost simultaneously under the Peshwa's Government. If such be the case why should Government now seek under colour of this tax to introduce innovations and advance their claims to trees which the *kolái* did not touch in practice? Furthermore, if Government of their own free will abandoned a tax levied by a former Government as impolitic, illegal or illiberal, why does it now try to purge it and take a very illogical course of action and beg the question? This conduct shows Government do not care to keep and maintain its own words and promises which is quite unworthy of an enlightened, liberal Government. Lastly, the general rule of Law should not be forgotten, that one ought not to be allowed to take advantage of his own acts in support of the rights he sets up in derogation of the rights of others without that others willingly consent.

The Resolution stated above also shows it pretty clearly that Government themselves did not think that any rights to trees existed in them and were uncertain whether they had the power as of right to prohibit the felling of teak. They therefore said that "the right of Government to prohibit altogether the felling of the teak be ascertained and next the necessity of Government resorting to this measure." It has been incontrovertibly proved therefore that it was simply on account of a necessity which Government thought that there was which induced them to restrict the felling of teak, but as to their right to do so, it was simply left to the officers to ascertain whose irresponsible and one-sided opinions on the point were taken as a sufficient proof towards the establishment of that right.

Mr. Campbell, the learned author of the *Thána Gazetteer*, writes: "Of the territories that form the District of Thána, the Islands of Sálsette, Elephanta, Hog Island, and Karanja were conquered by the British at the close of 1774. In the following year Raghunáthráv Peshwa, under the Treaty of Surat ceded Bassein and its dependencies. This cession was confirmed in 1778. But four years later, under the Treaty of Sálbai (1782) Bassein and its dependencies were restored to the Peshwa, and the British possession of Sálsette, Elephanta, Hog Island and Karanja was confirmed. The rest of the district was ceded by the Peshwa under the Treaty of Poona in June 1817." The Honourable Company's first Collector having assumed charge of the territory in the autumn of 1817 the Company formally entered upon the Government of this *zilla* in that year as per proclamation of Mr. Marriott, Collector, bearing date the 27th June 1817. Between this date and the year 1839 no document of any kind either in the shape of official correspondence, notification, orders or the like is forthcoming to show that any the least obstruction or hindrance was ever offered, made, or even intended to be made by Government to the peaceful enjoyment of the right over the trees and jungles by the rayats. The only available documents as noted above, point to the same direction, *viz.*, confirmation of all the rights that existed in the rayats. In paragraph 28 of his letter noted above, Mr. Naylor observed that up to the year 1839 people used under the British Government to *cut teak and other trees as they pleased* without any restrictions.

From the following remarks of the same officer it is pretty clear that "the earliest order on the subject of forest timber under the British rule . . . is dated 10th August 1839. It is a circular order issued by the Collector to the effect that he understood that people were beginning to cut down teak and *khair* in large quantities under the impression the Government contemplated making some new arrangements concerning teak timber and he therefore directed that they should be prohibited from cutting more than the amount which had been usually cut annually hitherto." No amount of argument need therefore be used to impress the Commission with a belief that no restrictions of any sort or description whatever were imposed up to the time of this injurious order issued as above to the effect aforesaid. The principles of modern international Law and the principles always adopted by the British Government ought to have weighed on the minds of the generous officers who first thought against the current of all good principles of introducing this novel change into the Forest system of the *zilla*. No remarks further than the above are called for to clearly indicate the exact point of time at which the rayats' long enjoyed and cherished rights were first attempted to be set at nought and a beginning made to the establishment of what are now called the rights of Government. Though somewhat feeble at the beginning this attempt gathered gradual strength as will be hereafter noticed.

"The next order in point of date 'says Mr. Naylor' is a proclamation issued by the Collector on the 12th July 1847, in which after assuring the people that Government has adopted and always is adopting measures for their welfare and happiness, and instancing the opening of schools and the sanitary measures recently inaugurated, he states that Government is very sorry that trees are always being cut down in the country and that the number of new ones planted and those that grow spontaneously is much smaller, than that of those cut, and after recounting the evils arising from a denudation of the country of trees, states that Government makes certain orders amongst which are :—

(1). "That all landholders and *vatandárs* should plant trees in the corners (boundaries ?) of their land."

(2). "That whosoever shall plant trees in his own land, he will be understood to be owner of them, to the same extent as he is of his trees which now grow in his land."

(3). "That the above decision is applicable to the orders at present in force about teak trees."

What "the orders at present in force about teak trees" were it does not appear, but in a subsequent order dated 12th August 1847 sent by the Collector to the *mámlatdárs* in continuation of the order with which he forwarded the above quoted proclamation for publication, some very distinct orders were given about teak trees. The material parts of the order as translated by Mr. Naylor from Maráthi are "Do not allow teak in Government lands to be cut at all and continue to enforce the orders which have already been given to you not to allow certain kinds of common trees to be cut in certain reserved parts of every village. But do not prohibit the custom hitherto in vogue of cutting wood in *waste and kuran* lands, but take measures that young trees which are likely to become useful for building purposes, shall not be cut."

Suffice it to say that even yet the Government officers who have claims to the birth of the conservancy system had not gone the full length of putting a very strong hand on the custom thereto obtaining. Then let us see what comes next.

We now come to the period of what are called the "Joint Rules." These were a set of Rules published by the authority of Government mainly intended for the guidance of Survey officers. A great deal of discussion is now and then raised in Courts as to the applicability of these Rules to the Konkan and there are conflicting decisions of the Courts on this point. But the applicability or non-applicability of them is not a question of importance in judging about their bearing to the present history. We are inclined to think that to explain the scope of the action of Government with regard to Forests, they can be made use of independently of their applicability to the district of Thána for the purpose of drawing an inference as to whether or not there were certain rights then in the rayats as to the cutting of trees and as to what the general understanding of Government then was.

Then again as to the applicability of these Rules to the district of Thána we need not go beyond the terms of the Government Resolution No. 2095, dated 27th May 1868, which for the purpose in hand says "that it (another Resolution on the Rules) should be held applicable only to the Districts to which Dunlop's proclamation extended." The proclamation was no doubt, as shown above intended for the *zilla* of Southern Konkan, but it must not be forgotten that the *zilla* of Thána, as also above remarked, comprised the *zilla* of Southern Konkan as it was then constituted. Thus it will be conclusively seen that the Joint Rules had applicability to at least a part of the *zilla* of Thána as it then was. The 10th Rule about which there is a good deal of discussion in the Tipnis case and which is held applicable to the Konkan by the District Judge against whose decision there is no appeal (the one filed being withdrawn by Government) is as follows :—

"Proprietors of *inám, judi,* and *mirás* lands, having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein and also holders of Government fields of which they have been in uninterrupted occupancy from a period anterior to the age of trees, or for a period of twenty years, or who have purchased the trees under the provisions of Rule 2." This last mentioned Rule, so far as it bears on the question of the purchase of the trees is as follows :—"The right of property in these trees and of occupancy in the field should be offered at a fair upset price and sold once for all by public auction to the highest bidder." . . .

Just about this time or a little before, Government were pleased in their Resolution No. 390, of 12th February 1847, to rule that "the right of *mirásdárs* and *sutidárs* to cut trees growing on their lands has never . . . been interfered with, either under the late or the present Government, and that while restrictions have in a greater or less degree of stringency existed in the Deccan and Southern Mahratta Country . . . &c."

Another strong piece of evidence is also available which is of the utmost importance both to the rayats as also to the seekers of innovation on the long established custom of the rayats. The Revenue Commissioner in a letter dated 3rd January 1846, No. 16, proposed a certain set of Rules for introduction into the administration of Forests in the Presidency, evidently with a view to meet what he thought the ends of justice with regard to what belonged to the people. These rules received the sanction of Government in a Resolution worded in a manner which does credit to the hand it drafted. We have nothing to do

with the body of the whole Resolution and leaving aside therefore the other portions, we quote only such as are essential for the better understanding of the rights of "enjoyment" on our part. It says: "All trees upon lands in hereditary occupancy, or uninterrupted enjoyment from a period anterior to the age of the trees, to be considered as the private property of the incumbent."

Passing on to the year 1852, the eye meets with another Resolution of Government passed on the 26th May of that year, No. 3639, which among other things says: "One object of that rule" alluding to the Revenue Commissioner's Rule, "is to promote the growth of trees by securing a right of property on them to the planter" and it would seem to be in the last degree inexpedient as well as in direct contravention of this provision to make use of the very fact, *viz.*, the conservation of the trees by which the Deshpánde's right of property in them is sought to be established by the Rule, for the purpose of depriving him of his right of property altogether.

Between the years 1852 and 1856 nothing of importance seems to have passed. In the latter and the following years are seen (in Tipnis case Exhibits) two agreements respectively passed by men who had obtained permission to cut, some trees in the jungles of certain villages in the Karjat *táluka* of the Thána Collectorate. These are probably put in to show that it was at that time the custom for such men to undertake to cut no more trees than they had received permission for.

The state of the Government record elucidating our right between the years 1857 and 1863 does not appear to be such as to justify us in bringing any particular paper to the notice of the Commission nor have we got any such paper in our possession. But the year 1863 will appear to be of the greatest bearing on these rights. Our position with respect to what are known as our "*málki* numbers" has been distinctly recognized by Government by their action in this year. This would thus seem to us to be an era of note in the annals of the history of our jungle rights under the British rule. Our rights over these numbers would not appear to have been held up to the eyes of Government by its officials up to then: but in this year an impetus was given to the question by the generous-minded Revenue Commissioner, Mr. Ellis, who in his Report on the well-known Committee of the year 1863, makes many happy suggestions as to the necessity of keeping these rights intact and proposes rules which were more or less accepted by Government in a Resolution. From this year onward it is that we, every now and then, have the pleasure of reading one Resolution of Government follow another on the subject of the rayat's *málki* numbers. These resolutions will all in succession be brought to the notice of the Commission, who will on looking at them, we venture to trust, undoubtedly see that an entire crushing down of these rights on the part of the Forest officials is but a step of extreme injustice, and official high-handedness which must sooner or later cease to exist. This all-important year, we again repeat, is the basis of a continuous confirmation of one branch of our various complicated rights, and a high authority like Mr. Naylor thus succinctly lays it down. He observes: "In 1863 a Committee, consisting of Colonel (then Major) Francis, Mr. E. P. Robertson, Acting Collector of Thána, and Mr. Dalzell, the Conservator of Forests, submitted a joint Report to Government upon the respective rights of Government and private individuals to forests. In the 9th paragraph of his letter No. 109, dated 15th January 1864, forwarding his joint report to Government, the Revenue Commissioner, Northern Division, Mr. Ellis, referring to his rules of 1863, said, 'I am sure it is not wise to reserve any rights over trees even if they be *teak and blackwood* growing in land *occupied by rayats*, and that whenever the trees are sufficiently numerous to make it worth while to preserve them as royalties, the land in which they stand should be set aside as a Forest Reserve.' In their Resolution No. 1106, dated 26th March 1864, Government whilst apparently concurring in these views (*vide* paragraph 8 of the Resolution) directed that the demarcation of the forest reserves as recommended by the Committee should be proceeded with at once. Dr. Brandis in his report of June 1870 (No. 208), stated (paragraph 18) that this demarcation had been nearly completed in the Thána Collectorate, (except in Dahánu and Máhim), but speaking generally of the forest revenues he says (paragraph 12) that a considerable portion of them is at present derived from the sale of teak growing on rayat's numbers, and alluded to the fact (paragraph 38) that forest administration in this Presidency comprises the maintenance and exercise of the Government forest rights, in occupied lands and in private estates."

While on this subject Mr. Naylor further remarks: It is, I think clear, from the two last paragraphs and from various other orders of Government to which reference has been made in the course of this report:

(1.) "That Government wish that forest reserves should be every where distinctly demarcated, and this demarcation has in Thána been nearly completed."

(2.) "The Government further desires to limit all restrictions to the forest reserves so demarcated."

(3.) "That as a matter of fact in the Thána Collectorate the said restrictions are not so limited, and that whether owing to the unsuccessful attempt to carry out Mr. Ellis' rules or what other cause I cannot say, the Government forest rights in rayats' numbers, and private estates are still enforced, thereby causing oppression and hardship to the rayats."

The next important paper in the order of time is the Collector of Thána's circular letter No. 70, dated the 19th of December 1864. The general tone of the Circular is in keeping with the views expressed above as the views of the Revenue Commissioner and of Mr. Naylor and partly of the Government themselves that any interference on the part of Government with the felling, &c., of trees growing on private lands is not just and proper. The Collector has, while trying to inculcate the spirit of these views, indirectly interfered with a certain class of such holdings; as also he imposes a certain uncalled for limitation on the rights of private holders in respect to trees which form an important item of the timber, *viz.*, teak, blackwood, &c. The guarded expressions in the Collector's said order are quoted here as a sample of slow official progress of restrictive measures in direct contravention to the spirit of the Government Resolutions and the views of officers superior to the Collector. The subordinates to whom such orders are directed naturally would, as in the present case, follow the views of the Collector as their immediate superior rather than the views of those above him for fear of disobedience, and a breach of strict official discipline, if not for anything else.

The order in question says: "persons in whose names lands are registered are now in the habit of cutting the *injáili* trees standing on their proprietary lands. But the number holders have no right to the trees which stand on the lands registered in the names of Vanjáris and others for the purpose of aiding them in the cultivation of their own lands, &c. Similarly with a view that jungles over which Government have a claim may not be cut under any circumstances whatever, you should make a report to the (Assistant) Collector of the Division before any jungle is cut from such of the numbers (lands) over which private individuals have no right . . . . ."

Another inference to be drawn from the Collector ordering his subordinates to keep a vigilant eye on the cutting of jungles over which the rayats have no right is that the Collector indirectly admits that there are jungles over which the rayats *have* such rights, or else he need not have ordered in these terms, making a distinction between *málki* jungles and jungles over which Government alone have the absolute right. Furthermore such orders lead to the inference that there were no restrictions to any kind of cutting, forif there was any understanding already between the rayats and the Government that certain cuttings were to be made and certain were not to be made without informing Government officers, any positive instructions as to how they are to act in these particulars now was simply uncalled for and out of place. Hence it follows that up to and before this time no information was required to be given to Government officials before making cuttings in jungles over proprietary lands.

By this kind of circularising another thing is made clear that while Government pass Resolutions after Resolutions in one direction, their subordinates, by a mistaken zeal, try to set them and their spirit and object at nought; and unjustly endeavour to make *their* subordinates work those Resolutions in another direction. No doubt zeal is one of the first qualifications of an efficient officer. But overzeal is quite another matter for virtue carried to excess becomes vice; and anything overdone is always undone is a golden rule which should never be forgotten. Such steps have often led the people into a belief perfectly antagonistic to the growth of sympathy between the rayats and the officers. We cannot, therefore, help remarking that the total absence of sound discretion, nay positive arbitrariness on the part of the Government officers in administering Forest Laws and Regulations has been greatly instrumental in producing many an untoward result. This blind persistency on the part of subordinate officers of Government would in some measure have been pardonable, if any countenance was given to it in those years by the acts of the Government even latently. But such being not the case, and the Resolutions which we have to refer the Commission to hereafter, clearly show that such was indeed not the case, any intermeddling on the part of subordinates against the wishes of the Government is surely reprehensible. To be brief, the policy of Government then, so far as the property in the trees growing on private lands was concerned, would appear to be a policy of leniency and justice, although at times chequered by official colouring.

*Anent* this subject of *málki* numbers, the year 1864 and the subsequent years up to a recent date are prolific in Government Resolutions, orders and letters. We have no access to the records of Government at the Secretariat or to the records of the Mofussil officers, and our information must therefore be of a very limited character on such papers and we have clearly to work at a great disadvantage. But the available record shows that on the 18th June 1864 a Resolution was passed by Government on the subject in question and the wording and effect of that Resolution is given by Mr. Naylor in this way: 22 "When Government at the Survey Settlement have felled all the teak and blackwood on a rayat's field there should be no further interference, and Government have no claim to the second growth which may spring up from the old roots and stumps." Government Resolution No. 2291 dated as above (See hand-book page 172, paragraph 22.) The tendency seems to be that all trees falling in the above category should be exempted from every kind of restrictions lately imposed on the felling, &c., thereof. Soon after the passing of the said Resolution the Collector of Thána seems to have passed a circular order on the subject, No. 37, which runs as follows "orders given as follows. Permission is not necessary to cut trees standing on proprietary (*málki*) numbers (lands.)"

By way of illustration as to whether these orders were strictly obeyed and followed another instance may be quoted. After the passing of the said Government Resolution No. 2291, dated 18th June 1864, referred to above, one Ganesh Náráyan Kelkar, residing at the village of Khopavali, perhaps in ignorance of the aforesaid Resolution and the circular order of the Collector in terms of the spirit of that Resolution, applied in or about the month of August 1864 for permission to cut trees growing on his *málki* proprietary numbers. The Assistant Collector in charge of the *táluka* would appear to be the proper authority in disposing of such matters and the gentleman then in such charge makes answer to the said petition on the 6th of August 1864 as follows: "To the applicant Ganesh Náráyan Kelkar, residing at Khopavali. The permission of Government is not necessary to cut trees on proprietary (*málki*) numbers (lands)." One is apt to mistake the proper meaning when the Assistant Collector says the permission of Government is not necessary. By the term Government is not to be understood as meaning the Government of Bombay technically. It is usual in Maráthi petitions and answers to say *sarkárchi parvángi*, thereby evidently implying the permission of a proper officer of Government. The term Government, therefore, used in the answer does not mean the Local Government, but a responsible officer of Government carrying out this branch of business in the mofussil.

Coming to the year 1865, one is again surprised to find that the object of Government in framing the above quoted Resolution on the subject of *málki* numbers has been attempted to be frustrated by the Collector of Thána, similarly to the attempt we have already quoted as made by the same officer as per his circular order dated 19th December 1864. But because this order of 19th December 1864 had probably not washed out the effect of the Resolution altogether, the Collector betook himself to a repetition. This uncalled for pertinacity in thus pressing matters which had already been disposed of by the highest authority shows either a want of proper appreciation of the just claims of private individuals or of the rayats at large, or a wilful disregard of all such claims with a view to put forward the opposite claims of Government in order to make a beginning so that in the event of any future occasion arising, as in the present instance of an enquiry by you, Government may be enabled to make a show of some evidence, strong or weak, of their alleged rights. This undoubtedly does credit to the officials in so far as they could foresee a contingency against which they thought of providing in times gone by. But in so doing they show a total absence of the sense of justice which is a characteristic of British rule, and thereby strengthen the inference and belief that the rayats' rights have been intentionally trampled upon and extinguished. An instance of this high-handed policy it is not far to seek in the year 1865, (mind the very next year after the passing of Government Resolution No. 2291).

One Shivrám Pándurang and about 45 others applied on the 29th March 1865 to the Collector of Thána, praying among other things that wherever Survey was made Government had removed all, (if any), the restrictions that existed about the felling of trees in their *suti shindád* numbers. They required those trees some for building, others for agriculture, and others again for various other necessary purposes, and as the trees were their own, a great deal of hardship was caused owing to the necessity of obtaining permission, on account of the prohibition, and requesting that they should not be prohibited to cut such trees, remarking further that such acts of prohibition were calculated to do great injustice to them and others. They have also given a recital of the progress of Government restrictions in limitation of their own rights which were unrestricted and unlimited, and try to point out the proper scope of the system of conservancy which they remark was introduced into their *táluka*, (Nasarápur) since the year 1845. But yet the standing circulars being probably very severe they pray in conclusion that the Collector would be pleased to take into his consideration their grievances, shown in five paragraphs, and make an order without delay granting them general permission to cut down trees standing in their numbers.

Now note the Collector's answer to their humble petition of which we give a literal translation so far as it is required for this purpose—"Reply to the petitioners."

1st.—"It has been observed that where people had long been in the habit of cutting trees for the purpose of agriculture they still continue to cut trees; it is not understood what complaint the petitioners have to make in that respect. As regards other trees resolution will be made either in the current year or in the next year.

2nd.—"Those who wish to obtain permission to cut trees of their right of ownership standing in their own numbers should make a petition to the *mámlatdár* in that respect. The matter will then be inquired into. . . .

What this answer really means we are at a loss to understand. The same officer who makes a circular order that permission to cut trees of the kind mentioned above is not at all required now recedes from it and says that a petition should be made to the *mámlatdár* when it will be inquired into. This is indeed strange. The object would appear to be nothing but an undeserved severity of conduct towards the rayats and a crushing down of their legitimate rights.

In this very year the Survey Act I of 1865 was passed. Sections 39 and 40 of this Act are:—Section 39. "Any person desirous of taking up unoccupied assessed land, must pre-

viously to entering upon occupation obtain the permission in writing of the Local Native Revenue Officer (*Mámlatdár* or *Mahálkari*) and in the event of his cultivating or otherwise taking possession of any portion of a number without his application having been formally allowed, it shall be lawful for the Collector to levy from the said person a special assessment not exceeding four times the assessment ordinarily chargeable on the entire number, and to summarily eject him from the land unauthorizedly occupied."

Section 40. "The permission to occupy land provided for in the preceding Section shall in all future settlements include the concession of the right of Government to all trees growing on that land which are not then specially reserved." The result of the survey of the *zilla* will be shown by the following tabular statement which clearly shows that even after the Conservancy system came into operation, Government felt bound to reserve *certain* rights in the rayats in *all tálukás* and *absolute* rights in the rayats in some *tálukás* of the Collectorate.

| No. | Name of Táluka. | Area Miles. | Population. | | | Extent in Acres. | Amount of Public Revenue. | Remarks. |
|---|---|---|---|---|---|---|---|---|
| | | | Non-Foresters. | Foresters, *i. e.*, living in Forest and maintaining therefrom. | Total. | | | |
| | | | | | | | Rs. | |
| 1 | Karjat ... ... | 356 | 63,093 | 18,970 | 82,063 | 205,440 | 1,20,610 | Government have reserved to themselves no rights over trees and jungles. |
| 2 | Panvel ... ... | 307 | 85,102 | 16,079 | 101,181 | 135,729 | 1,98,140 | Do. do. |
| 3 | Kalyán ... ... | 278 | 63,981 | 14,007 | 77,988 | 171,360 | 1,39,070 | Government have reserved no rights except over teak and blackwood. |
| 4 | Murbád ... ... | 351 | 46,759 | 17,173 | 63,932 | 217,760 | 90,600 | Do. do. |
| 5 | Bhivandi ... ... | 250 | 66,794 | 8,569 | 75,363 | 147,200 | 1,39,250 | As for Karjat. |
| 6 | Sáshti ... ... | 241 | 86,999 | 21,150 | 108,149 | 130,274 | 1,53,300 | Government have reserved rights only over trees at Kashimire, Ghodbandar, Vyáhád, Yeur and Parsik. |
| 7 | Bassein ... ... | 221 | 59,241 | 9,726 | 68,967 | 137,920 | 1,26,710 | Ownership of owners of survey numbers recognized. |
| 8 | Máhim .. ... | 419 | 65,711 | 11,649 | 77,360 | 262,403 | 1,17,650 | As for Kalyán. |
| 9 | Sháhápur ... ... | 870 | 61,811 | 45,918 | 107,729 | 543,384 | 1,19,950 | Rayats have liberty of rights of use over all trees, except teak, blackwood and *tivas*, for agricultural and building purposes; all other rights with Government. |
| 10 | Váda ... ... ... | 306 | 23,626 | 12,871 | 36,497 | 170,890 | 48,950 | Do. do. |
| 11 | Dahánu ... ... | 643 | 47,754 | 61,568 | 109,322 | 411,890 | 1,26,840 | Do. Government have not kept any rights to themselves over trees in *peta* Umbargáv of this *táluka*. |
| | Total ... | 4,242 | 670,871 | 237,680 | 908,551 | 2,534,250 | 13,81,070 | |

Further tracing the public doings of Government and their officers we fail to find anything worthy of note in the year 1865, so we naturally pass it on and reach the year 1866. The pertinacity noted above having become unpalatable and unbearable to the rayats steps were probably taken to make the matter of permission now reach the ears of Government and to make them pass a Resolution on the subject and once for all set the knotty question at rest. It appears Government *were* eventually moved to pass a Resolution on the 27th of February 1866, No. 734, which is as follows:—

His Excellency the Governor-in-Council having reason to believe that rule No. 11 attached to paragraph 84 of the joint report which requires occupants of survey numbers to obtain permission of the *mámlatdár* before they can cut down a tree is calculated to destroy the feeling of right of property in trees and to deter rayats from preserving them is pleased to direct that the said rule be cancelled in all Collectorates where it is at present in force".

This Resolution makes two things quite clear. It first of all removes the doubt, or a show of doubt, which was in the minds of the responsible officials of Government as to whether or not permission was necessary to cut trees on Survey numbers, by stating once for all that such permission was *not* necessary; 2ndly, it lays down a broad principle that impetus should be given to the rayats to preserve their trees which the Government calls the rayats' own property.

But this Resolution also, it is to be remembered, was soon made a useless document by the Collector of the Thána District by his circular order. (By the bye it would be useful to remark here that it seems from this circular that this Resolution was made applicable to the Thána Collectorate; it therefore follows that the Survey Joint Rules were applicable to it, for the subject of the Resolution is the Rules themselves.) This circular order is No. 91, and bears date in March 1866. It seems no time was lost by this zealous officer to make this Resolution known to the public. But in doing this he did not omit to ride his hobby. Although there is not a word to that effect in the Resolution itself, the Collector orders his subordinates to understand that the Resolution applied to all trees "*except teak, blackwood and fruit trees.*" Now it is difficult to see whence this officer imports these injunctions into the Government Resolution. Any ordinary man of average understanding fairly acquainted with the English language as it is used in official correspondence, will be at a loss to see how this novel interpretation is possible from the four corners of the Resolution. This would, indeed, be nothing more or less than the creature of this zealous officer's imagination, who in his strong wish to preserve the right to all kind of teak and blackwood, wheresoever growing, to the Government, forgot in a hurry to interprete the Resolution correctly and thereby caused a great havoc as will be soon noticed in the sequence. No wonder that one's own ideas are always the uppermost and in giving a meaning to other people's writings one looks at it in his own views. So did the Collector also, and missed altogether the aim and object of the Resolution. This is all a very easy play for the Collector but a great shock to the people's rights of property to the trees, and greatly resembles the story in Æsop's Fables.

Let the Local Government or the Supreme Government or even the State Secretary pass any rules or resolutions as they please, but yet the Collector is a Collector and he must see how he collects the Revenue not caring to know whether he thereby upsets a whole system, and so closely following his usual rule of conduct the Collector does not seem to have given an inch of ground to the Resolution. The Resolution got birth at the hands of the Local Government and died a somewhat unnatural death at the hands of the Collector, the all-powerful ruler of his district, responsible neither to the Government nor his own conscience, but to his hobby. Such is indeed the Collector's smooth and unmuddled path; but what is the consequence? The state of confusion remains in *statu quo* and the rayats go on grumbling, complaining and petitioning, but probably no heed is taken of them until the case of one of these unfortunate petitioners is again taken up to the Government itself. The year 1867 will explain the history of this case.

On the 16th October, 1867, Mr P. J. D'Almeida petitioned Government, representing that he was not allowed, without the permission of the *mámlatdár*, to cut trees on his own land at Morlegaum in the Salsette *táluka* of the Thána Collectorate, and praying that the Government circular No. 734, dated 27th February 1866, be made applicable to his case.

While reporting on this petition the Revenue Commissioner, N. D., would "try again" as the phrase is, to bring to the notice of Government and recommend that the Survey Joint Rules, on which the aforesaid circular was framed, were not made applicable to the Konkan and that petitioner should not therefore get the benefit of the circular. But mark how Government have acted and snubbed this officer in his proposals. The Government Resolution is very important and it would be proper to quote it here *in extenso*. "Resolution.—The practice is quite opposed to the spirit of the Rules quoted to support it. Those rules like the Government circular No. 734, dated 27th February, 1866, both had for their object the discontinuance of all interference on the part of Government with trees growing on the land of rayats."

2nd. "The circular was not applicable to Thána because the rule of the Joint Report which it cancelled was not in force in that district, but nevertheless had any similar rule been in force it would have been the duty of the Revenue Commissioner to cancel it."

3rd. "The rules of the late Revenue Commissioner distinctly provided the means of getting rid of the Government rights in trees growing on rayats' lands, and there is nothing in those rules to justify constant interference and inquiry by the necessity for a rayat to obtain permission to cut down trees on his own land."

4th. "The late Mr. Gordon appears to have made such a rule for a different object, the protection of Government forests. In villages close to Government forests the rule may be expedient equally for the protection of the rayat from the liability to have his wood seized on suspicion, as for the prevention of plunder of Government forests."

5th. "But except in the immediate proximity of Government forests, there are no valid reasons for continuing the rule and except in such situation it should forthwith be abrogated."

After the communication of this Resolution to the Collector and the Conservator of Forests, the latter in his letter No. 775, dated 20th July 1868, relative to the rights of rayats to cut trees on their lands, observed that much practical inconvenience would be caused in carrying out the instructions conveyed in that Resolution. Whereupon another Resolution equally strong was passed on the 13th October 1868, No. 3827. It says: "The Acting Collector should be directed to give effect to the rules of the late Revenue Commissioner to the extent indicated in the Government Resolution quoted by the Conservator of Forests. There is an insuperable objection to making the past system applicable to land-holders in the position of Mr. D'Almeida, on whose petition the former Resolution was passed."

In 1868 another Resolution worthy of note is available, we mean Resolution No. 1240, of 28th March 1868. It says: "Government concur with the Revenue Commissioner, S. D., that there should be no interference on the part of Government with teak and blackwood or any other trees growing on *dhára* land."

This is indeed a Resolution passed with respect to *dhára* lands in the Ratnágiri Collectorate and was passed at the recommendation of the Revenue Commissioner for the Southern Division. But when the Commission will be going to hear evidence, and to ascertain what this tenure of *dhára* land is, it will, we hope, be satisfied that *dhára, mirás* and *suti* lands are of the very same character of tenure, and what applies to one kind of these lands applies with equal force to the others. We hope to be able in the course of our complaint portion of this statement to prove by oral and documentary evidence that we are not amiss in stating that such is the respective tenure of each of these three lands.

Independent of that evidence we give a passage which will show that these three tenures are of a similar character. "Permanency is no doubt the distinguishing characteristic of the *sutidárs'* tenure as of the *dhárekaris'* or *mirásdárs,'* and this fact has been recognized by the Bombay High Court in special appeal No. 642 of 1866 (IV. Bombay High Court Reports 125 A.C.J.). But whether the *sutidár* has the property in the soil, and is only liable to be assessed to the land revenue as to an Imperial tax, or whether the Government is the owner of the soil and assessment which the *sutidár* pays is the acknowledgment of his tenancy under Government as landlord, is a question upon which it would perhaps be impossible to arrive at a satisfactory decision. The origin of the tenure is *untraceable,* and we can only judge of its nature, by the incidents which we find attached to it."

From this it will be clear that the *suti* is in no way a tenure of lesser importance than the others. The others by distinct Rulings and Resolutions have been held and recognized to be proprietary estates, as partly shown above, and to be partly explained by the evidence to be hereafter produced before the Commission. The *suti,* therefore, is no less such an estate. In order to remove a doubt that may perhaps find place with some, it must be noted here distinctly that *suti* is not necessarily limited to a class of holding known as *kharif* but also applies to *varkas,* and with due deference to the opinion of the learned judges in the Pendse case we feel bound to state for the information of the Commission that whatever applies to the *kharif* also applies to the *varkas* holding of a holder of land. The Survey Act of 1865 gives a distinct meaning to each of these phrases, and in spirit, if not in so many words, it makes no distinction between a *kharif* holding and a *varkas* holding. The provisions of the Act bearing on this matter are found in the interpretation or definition section of the Act.

In the same year 1868 we notice another important Resolution passed on the 17th February, No. 625. It says: "The fact of a village being one in which the right of cutting teak and blackwood is specially reserved cannot render it necessary to prevent a man from doing as he pleases with the common jungle wood growing on his own land."

Mark also another Resolution No. 3412, dated 18th September 1868, which disposes of the right of Government, if there was any, in this manner. It says: "If the Government property in trees is once disposed of at a valuation, all right of interference in any trees growing in the village will thereafter cease." This has probably a bearing on the provisions of Section 40 of Act I of 1865.

Passing over the years 1869 and 1870 in silence (of which latter year, however, we have taken a passing note in the history of the years 1863 and 1864) we come to the year 1871. In this year the first Resolution we see passed by the Government of Bombay of any use to the people as a protective measure, is No. 4082, dated 23rd August 1871. This is as follows:—"...When forest reserves as in Kolába, include hills, the *rights* of grazing which the villagers have hitherto enjoyed on the tops of the hills are not to be interfered with. The Forest officers may arrange with the villagers to set apart for plantation purposes certain parts of these hill tops on the understanding that they will again be available for grazing when the trees have attained a certain height, but no kind of pressure is to be used." It is to be gathered from the language of this document that even in the middle of a year in which the demarcation ordered in 1864 was nearly at an end, Government had not the unkindness as they have now-a-days to turn out the grazing population from the hill tops not caring how it would tell upon them and their rights, but tried to

take as much precaution and care to preserve those rights as a kind Government, desirous of introducing a new system, ought to do, and gave their officers strict orders not to use any kind of pressure on the rayats.

The next document is Government Resolution No. 4693, dated 22nd September 1871. This is, therefore, the second Resolution we quote in this year's history. Although the second this year and the last in point of time in *this* part of our complaint, it is second to none in point of importance. It throws a deal of light on altogether a different but vital branch of the rights of the rayats. All the Resolutions heretofore quoted and observed upon do one and all bear on the question, "Whom do the trees belong?" This Resolution deals with another question. It tacitly holds that the foregoing Resolutions have sufficiently cleared up the rayat's position with respect to their right to the *trees* growing on their holdings and after so doing proceeds to decide also the question, "Whom does the *land itself*, included in those holdings or Survey numbers, belong?" Unlike its present tone Government would seem to have looked at the question in a more unbiassed manner and given such answer to the issue as justice, custom and commonsense, and good conscience and equity alone suggested. The gist of the whole Resolution is that Government considers that the holders of survey numbers in whose names the numbers are respectively entered in the Government records are the *owners* of the area thus entered. This is strictly a rule of commonsense and common law which our Government have thought fit to accept itself and promulgate for the guidance of its officers. It indeed does great credit to the generous mind which was brought to work out this noble Resolution. That this principle should have been departed from in later years, and the exigencies of State or other cogent reasons should have led the Government to bid farewell to it, is a sudden misfortune which has befallen us; and to remedy the effects this latter policy has produced, is one of the chief functions of the learned members of the Commission.

This Resolution brings us to the period when demarcation of the district of Thána inaugurated in about 1864 was almost completed, and therefore to a period of approaching evil. After this period no attention whatever would appear to have been paid to the rayat's rights, and it is therefore useless to attempt to find out any papers which we can use in support of the claims we put forward. Simultaneously with the policy of conservation and demarcation, a policy of rigour was adopted and the rayats were being gradually taught to forget that they had any rights in their lands, their trees, or their holdings. Whenever a Forest officer showed a zeal which surmounted every endeavour on the rayat's part in putting forward their claims, and succeeded in inaugurating a policy which spread a derogatory influence on the rayat's pretensions, no time was lost in accepting that policy probably with thanks and rewards. As year succeeded year and the policy of wholesale conservation became pet with Government and its officers, the rayats gradually and slowly receded from their stand and soon fell in a state of chaos which it was beyond their power to remove, and therefore, quietly submitted to it. Government were busy in finding means whereby to give everlasting vigour to this policy and after adopting various measures to carry it out, found it expedient to pass a law whereby to set all rights of the people at complete defiance and make Government the only master of every tree that grew, grows, or will hereafter grow on the fruitful golden soil of British India. The legal machinery was thus set into motion and the all-absorbing Forest Act VII. of 1878 was passed after every formal discussion and deliberation in the Legislative Council of India. Between the years 1871 and 1878, therefore, we hardly find anything of any importance in furtherance of the rayats' rights. As to what passed after the Forest Act came into operation we think it proper to incorporate into the chapter of the grounds of complaint and we close this history on deducing the following facts from the foregoing documents and observations.

*Deductions.*

(1). That there is nothing on the records, either of the British or the former Governments, to show that teak or blackwood or other timber trees are or were *royalties;* but on the contrary it has been distinctly found as a fact, against which there was no appeal, and which was therefore conclusive, by the District Judge of Thána that Government have *not been able* to prove on the strength of the evidence they produced in the Tipnis case that teak trees were royalties.

(2). That from time beyond the memory of man, that is, since the time of the Peshwa's Government, if not also from the time of his predecessors up to the year 1847 or thereabouts, the people of this *zilla* have been in the habit, as of right, of bringing, cutting, removing, and using for any purpose whatever teak or any trees of any kind whatever unrestrictedly, uninterruptedly and peaceably from generation to generation, and that the unlimited exercise of this right of custom has never been up to then challenged.

(3). That a scheme of conservancy was first contemplated in 1839, and partly introduced in 1847, but now and then the rights of the rayats were preserved, protected and confirmed. This too was with respect to tracts not generally required by the people; any other kind of jungle or forest being left untouched as the exclusive property of the rayats.

(4). That the officers of Government in their overzeal to carry out the conservancy system in a promiscuous and high-handed manner did at times interfere with the rayats'

rights over trees growing on their *málki* survey numbers and private estates and holdings, which the Government completely put a stop to by passing Resolutions between the years 1864 and 1868.

(5). That in the happy year 1871 the Government passed a Resolution recognizing the proprietary right of the survey land-holder (occupant) to the land itself, as distinguished from the right to the trees thereon which was already recognized by them as observed in the 4th deduction.

(6). That notwithstanding the passing of various orders in limitation and restriction of the rayats' right to cut trees, &c., on public lands and forests, there appears nothing to indicate that they were strictly and actually enforced until up to the time of the Forest Act and the Rules framed by the Local Government thereunder. Laxity was the rule and severity exception in those days, and the rayats had hardly any good grounds to believe until then (the period of the Rules) that their rights were abrogated, seriously interfered with, or molested.

(7). That the grazing, fuel, agricultural, domestic, and ordinary casual trading rights of the people over the jungles had never been seriously questioned until the time of the Forest Act which put a wholesale restriction on all of them and all of a sudden.

(8). That the district of Thána being partly ceded and partly conquered it is opposed to the policy of modern international law that Government should take to themselves such rights as belonged to the people, inhabiting at all events the ceded portion of the territory, and that that portion of territory is very great. In such ceded portions they cannot acquire by any rule of law or politics, the rights of the people. That which cannot be got as of right should be forcibly taken by virtue of a law speaks of the bad policy of the law.

## Part II.

### *Grievances.*

The Indian Forest Act, No. VII. of 1878, came into operation in March 1878, or thereabouts. "Within twelve months from the date on which this Act comes into force" says section 34, "in the territories administered by any Local Government, such Government shall after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under its executive control for purposes of forest-conservancy, determine which of such lands (if any) can, according to justice, equity and good conscience, be classed as Reserved forests or Protected forests under this Act and declare by notification in the *Local Official Gazette*, any lands so classed to be Reserved or Protected forests, as the case may be."

In accordance with the provisions of this section, large areas, measuring several hundred square miles, were notified as Reserved and Protected forests, in the *Bombay Government Gazette* of 1st March 1879, among which Thána stood prominent. Forest Settlement officers were also appointed to carry out the most important functions and responsibilities that devolved upon the Local Government by virtue of the various provisions of the Act in this behalf.

Section 41 of the Act ordains, among other things, that the Local Government may from time to time make rules for the transit of all timber and other forest produce, it being permitted further that the Local Government might fix fees on passes, &c., for the purpose of removing timber, &c. In their notification No. 4133, dated 9th August 1880, Government formally published these rules for the information of the public, but their operation was suspended up to 1st April 1882, as per Government Resolution No. 1559 of 8th March 1882.

These rules, *inter alia*, provide, to the rayats great hardship, that no timber or forest produce shall be removed without a pass from a proper officer, and that in respect of every such pass there shall be payable such fee as the Conservator of Forests, with the previous sanction of Government, shall prescribe.

It would be needless to quote *verbatim* the definition of the terms "timber," "forest produce," &c., given in the Act; and we will simply refer the Commission to Section 2 of the Act for the purpose.

The stringent provisions of these rules taken together with the definitions of the several phrases given above, naturally caused great excitement and alarm among the people. Petitions after petitions were submitted both to the Local and Supreme Governments, among which the petition of Mr. Nanabhoy Byramjee Jeejeebhoy and other influential proprietors of villages in the Sálsette *táluka* may be referred to in illustration of our statement. Prayers followed prayers in profusion wherein the general complaint was that very many encroachments were made upon private lands and forests by the Settlement and other Forest officers, that the pass system worked a great havoc as would be hereafter detailed and

that the definitions in the Act were so vague, unlimited, and comprehensive, that even the very air we breathe might be verging upon the scope of the meaning attached to the term "forest produce" and that the natural rights of man were probably interfered with in many uncalled for ways and his natural freedom of action was altogether stopped.

As we should have to notice the grievances under various heads and groups, it would be proper to begin with the 1st group, *viz.*, the Reserved and Protected forests and the rules promulgated for their working.

It would seem to be the clear object and aim of the Legislature in framing the provisions of Section 34 that in apportioning lands for forests, Reserved or Protected, the rights of private individuals and the Government respectively thereto should be determined according to "justice, equity and good conscience."

How far these positive wishes of the Legislature have been carried out in fixing Forest limits by the several Forest Settlement officers appointed for this district would, therefore, seem to be a matter of great importance. Our enquiries and personal experience have enabled us to say without fear of opposition, that in many cases, (and these cases, we will prove by both parol and documentary evidence to the utmost of our power) the object of the Legislature has been frustrated. Many an illiterate, ignorant claimant who had not the prudence or foresight to preserve his title deeds, if he had any, has suffered, because he could not produce any documentary evidence in support of the claim he would urge to a particular area proposed to be taken up in any particular *táluka* or village. We can instance several notices and summonses issued by the Settlement officers to claimants and others, calling upon them to produce *documentary* evidence if they had any, thereby clearly implying that oral evidence was of no value with them. Within our experience we venture to say we have not seen a tribunal, save and except the Settlement officer concerned, who would consider oral evidence as no evidence at all. As to documentary evidence in such cases it is generally difficult to obtain for plain and palpable reasons. The history of our claims will show that there existed no necessity for a document in former times, no objection of any kind having ever been raised to such rights, and the rayats' first occupancy having begun when there was none else than God to transfer possession thereof to them, absolutely no title deed was even dreamt of. Should we attempt to find any Law on the point from which the officer may have borrowed his procedure of proof, we fail there too. So in the absence of any sound reasoning or sound law the claimants' right is made dependent on written evidence only. The burden of proof again is improperly cast on the wrong party. Mark again what opportunity the claimant has generally of placing his evidence before the officer ! ! The officer as a matter of fact, uncontroverted and introvertible, moves from village to village and *táluka* to *táluka*, and the poor claimant has also to move with him; that is one disadvantage. Owing to this uncertainty of the officer's stay again the claimant is not generally able to get advice or adviser to place his matter before the officer. Thus half the chance of a successful issue is gone. Half that remains is washed out by the fact that generally these Forest officers are in the habit of (there may be some noble exception we do not deny) looking at the questions for enquiry with the spirit of a partisan rather than with a strictly judicial mind. And no wonder if they do so and their inquiries are a mere mockery of justice. They are generally Assistant Collectors of various grades in the service. Their promotions and prospects absolutely depend upon the Executive Government, and they have received from Government the most precise instructions regarding the views of Government upon all Forest questions which are now at issue; and all orders passed by them, in the last resort, are subject to revision by the Local Government. By some chance some claimants do come out successful, but most do not. Then the area is taken up without payment. This tells upon the owner in a two-fold manner, *viz.*, he loses both his right and its price in money, which it tells upon the general body of the inhabitants of that particular village in a single but significant way, *viz.*, that it deprives them of their former rights or privileges over that part of the land, and leaves them so much the less land for all the practical purposes of an agricultural village.

Thus slowly and surely man after man and village after village was made to give up his or its rights in regular succession in favour of the contemplated Forests, and thereby brought upon himself or itself manifold inconveniences and hardships. In thus subserving the wants of the Forest Officer the rayat brought upon himself a detrimental curtailment of his own rights, and was left to the mercy of Heaven alone for the fulfilment of his own requirements, and thereby became an unwilling instrument of his country's ruin. Applying the mathematical rule of addition and subtraction to this process of acquiring Forest areas in a village we come to an unbearable result. Whatever quantity of land the Forest area gains the several residents of a village lose, and eventually the whole village loses, and therefore the actual quantity of available land for the various uses of the villages is reduced by many hundred acres. Now mark to what uses this available quantity of Forest land used to be and is put. The villager would cut firewood for fuel for house consumption, take wood for building and agricultural purposes, lop trees and take leaves and grass for the purpose of *ráb* or woodash manure, without which, in many soils cultivation is impossible, and graze his cattle. The jungle tribes, moreover, would remove head-loads of firewood for sale in exchange for the necessaries of life. Add also the claims of the Local Industries, such as the sugar factories in the Bassein *táluka* and the plantain gardening and such other purposes in the coast *tálukás* generally. These and many others were the various uses to which the village public and Government waste, forest and pasture lands were put. Even in times when there

was no reservation and no restriction upon entry into Forest for these several purposes, the lands then available for these purposes were not quite sufficient for the requirements of the village. Now that great portions of those lands are made Forests and reserved, and the villagers are not allowed to make any use of them whatever, it is clear as daylight that they are immeasurably insufficient for the wants of the village. Not a few tabular statements will be forthcoming during the enquiry to satisfy the Commission that such is actually the case. In those statements we have attempted to show what the actual wants in former times were, what the actual wants in these days are, and what was and is the area and capability of the available land to supply them; and the result as evidenced by those statements is horrible.

Judging from the view the Government have taken of the Forest wants of the people, and having regard to the distinction which they have made between "Forest" and "non-Forest" villages in the Resolution appointing the Commission, we may perhaps be justified in thinking that the Commission may probably have a doubt as to whether all what is said above would apply to "non-forest" villages, and in endeavouring to remove that doubt we have not the least hesitation in stating that what applies to Forest villages applies equally to non-forest villages also. It is simply a difference in name but no difference in substance. We have taken great pains in collecting information on this point, and with the help of this information and our personal experience we have the confidence to note that most of these so-called non-forest villages have a long-established user upon the lands and jungles of adjoining villages, and for all practical purposes these jungles have answered the wants of their own "resident villagers" as also those of the neighbouring non-forest villages. The statements referred to above will bear us out in this observation also that the number of non-forest villages in this district is immensely greater than the number of Forest villages.

In February 1875, Mr. Shuttleworth, the Conservator of Forests, N. D., in pointing out the results of the demarcation in the district of Thána, observes, among other things, that, "The Imperial reserves, which are intended to be the sources of supplying the market with timber and firewood, consist of the upper hill slopes, abounding in sheet rock, indifferent soil, prolific growth of cactus bushes, scrub and dwarfed and crooked trees." This shows that the former demarcation officers took care to keep the reserves at such distances from the village forest limits as were consistent with the enjoyment of the rayats' right thereon and were calculated not to unnecessarily interfere with them in any way—such would indeed be sound principle on which to act. But the Forest Settlement officers created by the Forest Act became envious of the rayats' position and took Mr. Shuttleworth's hint as the basis for their settlements. In accordance with this hint these officers extended or changed the reserves in such a manner as to come down slopes and mix up with the rayats' holding and destroy them completely, with a view that better kinds of trees may be grown thereon. So far as the conservancy alone is concerned this step may by a strain of reasoning be considered wise. But what of the rayats' rights in the holdings thus appropriated for reserve purposes? Do the officers mean that because they want to improve the reserves they are justified in depriving others of their legitimate rights? If the Government wish there should be good trees grown on their reserve soils, do not the rayats also naturally wish the same with respect to theirs? Is it we humbly ask "equity, justice and good conscience"? Certainly not! Then with what show of rhyme or reason should this practice be allowed to stand? No! the sooner it is put a stop to, the better. In thus unscrupulously following this unjustifiable method of extension, the officers have caused a deal of mischief to rightful owners. Inch by inch the reserves are extending and in very many cases have come up to the very limits of "*kharif*" or "*varkas*" holdings of *sutidárs*. Hardly any enough ground is left between the reserve limits and the limits of a rayats' holding and incalculable hardship is caused because of his having been hemmed in on all sides. In some cases it is amusing to find that the reserves meet the boundaries of house compounds.

This all-devouring reserve monster has again spread his evil influences in altogether destroying and gulleting up another kind of property much valued and loved by the people of this *zilla, viz.*, the "*málki* numbers." In our history part of this complaint we have exhaustively pointed out our absolute title to this kind of property and we need not reiterate it over again. Suffice it to say, then, that this important property has greatly suffered from the reserve system being indiscriminately extended to it. From the statements to be produced at the hearing we hope to conclusively prove, as also by other evidence, that many such survey numbers have been incorporated in the reserves made in most villages. And in many cases no proper recompense is made; so that not content with the downright trampling down of the rayats' rights, the officers have added insult to injury. In the Karjat *táluka* the *shindád* holding is an equivalent of the "*málki* numbers" in the other *tálukás*.

So far with respect to the improper manner of acquiring land for the purpose of making Forest reserves. Now let us notice the Rules and the manner of keeping and guarding these reserves and the protected forests, for we need not dwell separately on the manner of acquiring lands for the latter, it being exactly similar to that noticed above with respect to reserves.

The immediate effect of the stringent and unprecedented rules noted above is to practically close all access to the public land reserved as State Forests except under official pass;

and to subject all persons requiring timber and other necessary Forest produce to taxation of a serious and wholly undefined character. Not only that the general public are dissatisfied with these arbitrary rules, but the Government of India themselves have entertained considerable doubts regarding their propriety as explained by the following passage.

"I am at the same time to add that although the rules which have been issued by the Government of Bombay under Section 41 of the Indian Forest Act, with the concurrence of the Government of India, are doubtless perfectly correct from a legal point of view, and are covered by the provision of that section, the Governor-General in Council is not without apprehension that the very detailed control which they contemplate over forest produce in transit by land may give rise to difficulties in practice, and tend, to some extent, to hamper the operations of private trade. The Government of India is not in a position to judge how far the system in force is necessitated by local circumstances, but anything like a searching interference with the land transport of Forest produce should only be sanctioned in case of absolute necessity. I am accordingly to suggest, for the consideration of His Excellency the Governor in Council, that a detailed enquiry should be instituted by the Government of Bombay in regard to the working of the rules in question, with the view of ascertaining whether the minute control prescribed by those rules over timber and other Forest produce in transit, especially by land, is really necessary and justifiable under the circumstances of the case." (Bombay Government Resolution No. 5210 of 12th July 1883). Such being the rules and their scope of control, all the forests are practically closed to the rayats. It is very difficult to imagine with the eye of a superficial observer of things what rigour these rules must have imposed upon those who have to deal with agricultural and similar matters. With agriculturists and others living in villages, constant access to the Forest is an absolute necessity, without which they cannot live and work. If this access is therefore severely restricted, as it is now, we must fail to conceive how any body having to attend to matters of this kind could manage to live and work without being compelled, though unwillingly, to commit an imperceptible infringement of these rules and thereby subject himself to the punishment prescribed for such infringement. Any transgression of a working rule has hitherto been generally punished by a fine, such fault being looked upon as a municipal offence. But the rules in question, unlike any others, also prescribe 6 months' imprisonment for an infringement thereof as shown by rule No. 26. Since the promulgation and operation of these rules, prosecutions have been immensely on the increase and many an innocent Forest resident and agriculturist kept to the rigours of an Indian jail, for no willing transgression of the rules. A statement of crimes thus committed and punished, is prepared for the information of the Commission. A ploughman who finds his plough broken in the very act of driving, or a husbandman who finds his tools and implements of husbandry out of order or completely broken, has either to run to the forests and get enough wood to repair or make them, and consequently to run the risk of punishment, or to run the risk of wilfully starving a numerous family that probably surrounds him ; and he naturally prefers the former course to the latter ; for no Indian farmer would ever think of being himself the cause of his family's ruin.

Whatever may be the horrors of a prison and the ordinary worry of a criminal prosecution, a father's heart melts when he finds his helpless young ones stand a sure chance of death by starvation, and his beloved wife, ignorant and uncivilized though she may be, standing an equally sure chance of an unmerited widowhood. The horrors of the jail or the unflinching persecution of the Police and the Forest authorities deters him not, and in order to save his wife and children he gladly sacrifices his own liberty. It often happens too that many an ignorant agriculturist, through the immemorial custom he and his ancestors have followed, (and habit is second nature) of bringing whatever they require from the neighbouring jungle, quite unconsciously, the very image of ignorance and innocence, runs to the forest readily and gets the wood or other forest produce as a matter of his wonted right. But the Law soon overtakes and sends him to prison, and then it is too late for him rightly to look at the matter for the law has had its course already which none can change for him. One is apt to think that when the Government has made so many arrangements for the supply of wood and other forest produce, it is but foolish on the part of a cultivator to run such risks as we have shown above. His proper course is to go to the nearest officer, pay the fee, obtain the necessary pass and then proceed with his field operations. This is quite an easy process in the eyes of many : but those who know the matter thoroughly well would not pronounce the cultivator a madman. What amount of worry attends him in so doing it is difficult to imagine. Before one could ordinarily get his required supply on obtaining a pass he has to subject himself to the whims and caprices of not less than half-a-dozen officers ;—the *nákedár*, the round guard, the ranger, the overseer, and every other description of the Forest service he is required to cringe and fawn. His first duty is to go to the pass-writer and pay his fee and get his pass. This greedy officer would first of all consult his convenience ; and if the demand for a pass does not suit him then he would ask the one in need to come at a particular time. Should he punctually attend, the writer *Sáb* gets offended and says : "well these fellows would not let slip the least opportunity of troubling me, and if I were to work at that rate I might surely be doing an injury to myself by this sort of punctual and regular business." Well, if the poor fellow were a little earlier or later than the appointed time even then the pass-writer gets angry, and would, as the case may be, say that he is rather too early, or that the time is past, and the office is closed, and he is taking his account, and all the usual kind of answering which is best

known to those alone who have the sad misfortune of being compelled to obtain passes. In this manner one is required to dance attendance upon the officer from hour to hour and from day to day, and if with all that he could secure his pass he returns hardly a happy man. There is but one sure and certain way of making a forest officer do his duty to the rayat readily and promptly, but being a matter too difficult of proof we had better pass it on in silence, and leave it to the Commission to ascertain it itself. It must not be forgotten that the pass obtained with so much difficulty and trouble does not *ipso facto* give the cultivator his plough or his axe's handle—a further process awaits him. The round guard on his part has certain duties to perform, *viz.*, to examine the pass, proceed with him to the jungle, give him strict injunctions as to how he should conduct himself while in the precincts of the jungle, how he is to get out of the jungle, by what route he must pass, to whom again he should exhibit the pass, and so on. But all this too presupposes that something which we have passed over. Now and then again he has to encounter the visits of the overseer or the ranger commonly called an inspector, whose queries he has again to answer and his directions, if he chooses to give any further, he has to follow, and his wishes he has furthermore to meet. There his troubles do not stop. He may meet by chance a policeman or any other guardian of the public peace and then hard questioning begins on that one's part. He pesters the bearer of the wood with a thousand unnecessary questions in order to satisfy himself whether it is brought under proper authority. But mark, should the unfortunate victim displease any single one of these officers he stands a sure way to jail, and unlike the other cultivator who goes there for nothing, he is made to go to it at great cost and trouble; or in other words, in trying to buy a pass to get forest produce from the Forest, one generally tries to get a sure incarceration unless he were to properly propitiate all the guardian deities of the Forests. The cultivator after passing through these various processes alone can manage to get his supply of wood under pass, otherwise he would not get it. There is still a further duty imposed upon him, *viz.*, that he must do his business within the time mentioned in the pass and when the period is over he must run back to the pass-giver and return the pass or else incur a certain penalty. This is the manner of obtaining a pass, this is the manner of getting the supply under a pass; and this is the easiest way open to us to get our supplies without fear of prosecution ! ! ! All this indeed is very troublesome and painful not to say costly. A poor wretched field labourer who earns his bread at the sweat of his brow by working all the 12 hours of the day and a part of the night in his field, to be subjected to all this, is surely miserable. How all this should take place is quite an inexplicable matter to us. Then again in most cases the pass presupposes the payment of a fee and the poor devil would prefer to pay a few drops of his very blood rather than pay a few bits of copper which he strives in vain to get.

Another smooth answer to these difficulties is generally returned by those who are not well conversant with the pass or the depôt system, *viz.*, that the cultivator should quickly go to the nearest depôt, pay the price and get the supply ready made which a kind Government has kept for him. Well, this again is perfectly true to an unexperienced eye, and the outer side really presents a beautiful picture; but "mark the inside of it and withdraw your answer" is our answer to them. The depôts in the first place are not in proper situations; to some villages they are too near, and to others they are too far, for most of them have no central position. Then furthermore there is not generally all the best supply of wood and other forest produce as the cultivator would require. There are, moreover, certain restrictions and limitations as to certain classes of wood and other forest produce. Then the salesman is in no degree a less important individual than the pass-writer. He has to consult his convenience, his time, and his everything. We need only say that all the process which is given in detail above is here repeated. But what follows after the repetition is worse than in the other case. Here the needy is to *buy* whatever he requires from the depôt, while there the man was to have *taken* whatever he required from the jungle, and that difference is great. A few annas is a matter of no consequence to those who move in higher circles and generally live in towns or cities, but a few annas worth of copper or silver is a great thing for the common cultivator; with the help of these few annas he has sometimes to work his way through the demands of a long month's supplies. His wife wants her "*masála*" or his child wants his "*kháu*" and whence does he meet it? from this store alone. A few pice placed in her hands send away the wife all joy and contentment, and a few "*ardhis*" make the little urchin jubilant; so the question of a few annas is indeed a vital question to the cultivator. There may be a few exceptions, and there may be some, who would bring ready cut wood stored at the depôt, but as a class the cultivator would rather go to the Forest and cut and get his own supply than to go to the nearest depôt and buy it.

The depôt system itself is not in favour with the people generally. Several grounds of complaint are urged against it, some of which have been already mentioned.

It will thus be seen that the stringent Rules framed by the Government under the provisions of the Forest Act, are, if considered with reference to the various vitally important facts noted above, calculated to cause extreme injury and hardship and to arouse in every quarter feelings of consternation and dismay. It will be seen at once that if the rules were strictly construed by the Forest authorities, and there is no doubt they are doing so, they would make it practically impossible for the cultivators in future to procure sufficient material for woodash manure, commonly known as "*ráb*" and other necessary requirements of husbandry, except at a price and under conditions that must seriously interfere with all agricultural operations. It will be seen further that under the operations

of the rules the privilege of procuring free timber for domestic and agricultural purposes must absolutely cease, and that the humblest and most distressed classes of the community must be subjected to most cruel and unremunerative taxation. It is not too much to say that these restrictions, particularly those on *rab* simply reduced the agricultural community to despair, and have already inflicted unprecedented injury upon all the interests which are connected directly or indirectly with the land. It needs no argument to prove the extreme injury and loss which is caused to all agriculturists and labourers by compelling them practically to purchase from Government all the wood that is required to satisfy the innumerable wants of a large and impoverished population. The numerous forest tribes who are similarly affected by these most stringent rules are habitually on the verge of starvation. They have hitherto looked at the hills and jungles as their sole resource and means of subsistence. The prohibition contained in the rules against moving and taking forest produce without a pass has come to many of these persons in the light of a death-warrant, and has practically placed the whole population of the hills at the mercy of the Forest subordinates who have not scrupled to use their power in the most cruel and oppressive manner. A large proportion of this vast forest population, numbering about a quarter million of souls in the *zilla*, is now reduced to the cruel dilemma of perishing by starvation or of appropriating wood and forest produce and being treated and punished as criminals.

The voluminous series of executive orders which were issued from time to time since the coming into operation of the aforesaid rules by the Government and its officers, has a tendency to inculcate upon the minds of the Forest officers the false principle laid down by the rules that the land reserved as State forests is the absolute property of Government and that private persons have no rights as against the Government. Such being the principle these officers have imbibed and great as the responsibilities are that are attached to their respective offices, they look upon every man, woman and child employed within forest limits as an object of great suspicion. And it is, therefore, not too much to say that in the interest of the so-called forest conservancy the rights and liberties of the whole population of the district, some hundreds of thousands in number are placed at the absolute mercy of a number of low paid stipendiaries. The monstrous character of such an administrative arrangement needs no comment.

But apart from the illegality of the restrictions and taxations complained of, the people of this district have to complain most bitterly of the arbitrary manner in which they have been suddenly deprived of various important rights which they have enjoyed from time immemorial in the various lands now reserved as State forests. The general nature of these rights has been sufficiently stated above. The Government of India who passed the Forest Act, under Section 41 of which the rules were framed by the Local Government, neither wished nor intended that a beneficial measure should be turned into an engine of oppression for harassing a whole people who are too poor and too uneducated to make their cries of distress heard. In no other part of India, so far as we are aware, has the working of the Forest Act been marked with such severity as in the Bombay Presidency. Its administration calls for prompt interference on the part of the higher authorities if the people are to be saved from the further ruinous consequences of a disastrous policy.

In this connection it is necessary to invite attention to the proceedings of a remarkable Forest Conference, composed wholly of officials of Government which was held at Thána in the month of October 1882, and to the orders passed by Government upon the proceedings of that Conference. The members of this Conference unanimously held that throughout the Thána Collectorate, all hill ranges and large forest blocks should be constituted Reserved forest, and should not be divided into Reserved and Protected forests as at present. They thought that the whole system of dividing the State forests into separate classes was a mistake; and that the wants of the people could be better met when the entire area of the more important forests is worked under one system as Reserved forests. The Conference expressed the belief that when Government made the distinction between Reserved and Protected forests in issuing the notification of 1st March 1879, they were under the impression that the public possibly had legal rights of which they could claim the exercise in the forest area. As a matter of fact, the Conference observed no such rights except those of an incorporeal nature have been discovered by the Forest Settlement officer to exist in any description of forests.

The general drift of the Committee's recommendation was to ignore altogether the idea of any communal or private rights, to treat the claims solely as a question of privilege, and to restrict the exercise of these so-called privileges within the narrowest possible grounds. Their dominant idea being to restrict access to the forests as much as possible they finally recommended the establishment of an elaborate system of forest depôts. These depôts and their insufficiency in supplying all the domestic, agricultural, and trading wants of the people, have been already remarked upon above. The recommendations of the Conference were finally reviewed by Government Resolution No. 3829, dated 18th May 1883, and as regards the proposal to abolish the distinction between Reserved and Protected forests, the Government were pleased to accord their consent. This Resolution confirms the proposals of the Committee in substance provisionally, pending the final report and recommendation of the Forest Settlement officer.

Such are the general aspects of the hardships caused by the working of the rules inaugurating the administration of the State forests. We are not aware of any authoritative official explanation of the various charges made by the people against the Government for having thus propounded a false and illegal principle of administration, nor are we in possession of any clear official document which would give any sufficient reasons for thus introducing a false conservancy system which sweeps away the long-cherished rights of the people to the various forests. Some feeble attempts would here and there appear to have been made by the Government officials at showing what it was that led them and the Government to inaugurate such a system. The main drift of these attempts is that the people being left at liberty to deal with the forests as they pleased, the forests were denuded of all trees at the hands of the rayats and a restrictive measure was thought necessary. A remarkable passage appearing in Mr. Shuttleworth's letter above quoted would repay perusal. He says: "The lower slopes of hills with the lands at their base, which contain good soil and the best tree-growth, have come into the hands of the people who have played *desperate havoc* therein." The italics are ours and we are not aware of any such "desperate havoc" having ever been played by the people. If any "havoc" was ever played, it was indeed played by the Government themselves rather than by the people on this point. See Government Resolution No. 1277, dated 15th April 1860, which was passed on the attention of Government being drawn to the fact that great destruction of the forests was caused under the system of farming the levy of fees. In other words it means Government encouraged this system for the sake of revenue, and the result of it was an indiscriminate and wholesale destruction of the forest. It would, therefore, be unjust to charge the *people* with the blame which properly rests on the shoulders of Government. Many years before this thought occurred to Mr. Shuttleworth, another officer, who was also a Conservator of Forests, and therefore Mr. Shuttleworth's predecessor in office, Mr. Dalzell, in his report No. 969, dated 12th October 1864, said: "The Thána rayats last season sold large quantities of *ain* cut on their own lands to timber merchants." Well, this may or may not be a fact, if a fact at all, it tells but very little in favour of the Forest officer. If the rayat has sold the wood grown on his own land that is no concern of the Government, and it could not in any sense have been instrumental in denuding the forests. It was but an infinitesimal part of the whole of the forest area of the district and of the Presidency, and that could not be a justifiable step towards the introduction of a sweeping conservancy policy.

Supposing the instances given by Mr. Shuttleworth and long before him by Mr. Dalzell were sufficient and correct, we could naturally expect the state of the forests of that time in a degree at all events worse than their state in these days. Our conservancy has long been in existence and let us see what has been conserved. The answer we give to that is incorporated in another tabular statement which will clearly show that the forests before the period of the Revenue Survey and of the conservancy were more thriving and more healthy, abounding in every description of useful timber trees, well grown and well fed by the action of Nature herself, quite independent of the acts of Government. Timber could be obtained in abundance both for domestic and agricultural purposes, as also for the purposes of trade and navigation. Demands upon demands used to be made from all parts of the country and our forests were able in a great measure to meet those after supplying our wants. The conservancy of forests is no doubt a necessary element in the administration of a country, but in a country like India where Nature smiles in all her graces upon the soil and forests thereof, and does her work of bounty in a better manner than man or art can, the voice of Nature should be consulted before the voice of Government. When the trees spontaneously grew upon soils suited to their happy growth, quite aloof and at a distant place where the foot of man or beast reached not or wished not to reach, they would thrive and flourish simply under the care of Nature and her elements. But since man brought in his own proposals and sought improvements upon the action of Nature she got wroth. When the old jungle limits were changed and brought near to village sites they were subject to many unintentional injuries. The nearness of the jungles was availed of by the people in visiting the forests and thus subjected themselves to the false charge, of being the cause of stunting their growth and depriving them of their supply. Government themselves have drawn profusely upon their jungle resources and cut and sold timber to such an enormous extent as to greatly affect its future growth. Many instances can be quoted in which Government have traded in wood like merchants, and in increasing their forest revenue have forgotten altogether the necessity of conservancy; and eventually its officers have thought of placing the whole blame on the innocent shoulders of the people at large. A statement showing the comparative extent, growth, and capacity of forests now and in former times, will be placed before the Commission so that they may form their own idea as to what are the real and correct results of this unprincipled and mistaken system of forest conservancy on the growth of the Forests which it pretends to conserve.

It is not altogether improbable that Government were compelled to take precautionary measures partly owing to the people having shown an inclination to cut down trees beyond their ordinary requirements and partly owing to other State reasons, and the Government were quite justified in taking steps to preserve forests with a view to be able to supply the country with a sufficient quantity of timber and other forest produce. But the measures ought to have been such as to be simply enough to check an abuse of the forests and should

not have been carried so far as to go much beyond the real necessities of the case and to be altogether detrimental to the legal rights of the rayats, for whose benefit alone Government were induced to inaugurate the conservancy system. And it is this excess alone, we believe, that the people detest, but not that they do not at all feel the necessity of conservancy. A properly instituted system of conservancy is indeed beneficial to the country in many ways, and it would be simply foolish on the part of the people to think that it should not at all exist, howsoever well conducted it may be. So far as we know their feelings on the matter, we venture to think that they are completely in favour of a well-organized and just system of conservancy. But as a matter of fact the original aim and object of the Government in introducing the system was in later years completely lost sight of, and Government began to look at the question more with a mercantile than with a governmental point of view. As year after year poured into their treasury increased revenue, Government were led to monopolize the Forests, and it was thought expedient, in the interest of this monopoly, to impose as much rigour and restriction on the people's rights as had the effect of altogether driving them from the Forests, and leaving Government the only masters thereof. We do not mean that Government should not make the Forests also a source of revenue just as any other thing, if they could be made so justly and reasonably. In these days of India's utter pauperism we should be happy to see that the revenue of the State was increased by every reasonable source. What we object to is the fact that a large proportion of the Forest revenue is derived from wholly illegitimate and improper sources, such as the taxation by means of fees of the poorest classes, and the sale by contract of a vast amount of grass and Forest produce required for agricultural purposes, which entails grievous loss on the community; so that the rayat is required in certain *tálukás* to pay many times more in the shape of Forest fees and charges than he has to pay in the shape of land tax for the occupation of his land. The rayat does not pay a regular assessment on the Forest tracts as he does in the case of his land; but he has indirectly to bear a very heavy load of Forest taxation in the shape of fees, &c., which altogether crushes him down. A statement showing the amount of tax per acre of Forests as compared to per acre of land will be forthcoming, from which the proportion can be fairly ascertained. The expenditure again absorbs an enormous and apparently unreasonable proportion of the Forest revenue, which itself is derived under the most unfavourable and pressing circumstances as above indicated.

This fatal temptation to show a perpetually increasing revenue is the snare which is apt to beset all new departments of Government. In their extreme anxiety to show an increasing revenue, to justify, in fact, their own existence, the Forest Conservators and their subordinates have become absolutely indifferent to the wants, wishes and rights of the vast number of people who are dependent for their very existence on the forest produce. It might reasonably have been anticipated that this natural departmental failing would have been remedied by the supervision of the executive Government. But it is melancholy to state that the attitude of Government has shown an emphatic desire to support the action of the Forest Department, and under the innocent disguise of a useful plan of Forest Conservancy, a fiscal scheme of great severity has been introduced.

Passing on from the Reserved and Protected forests we come to the next important head of "*málki*" numbers, and there too we find equally sufficient grounds for complaint, too numerous and too minute to detail; and so we shall limit ourselves to the mention of a few important features only. While the people have been greatly harassed and oppressed by the manner in which the State rights, or rather what are claimed as State rights are asserted in *Reserved and Protected* forests, they are not the less tormented on account of the manner in which the holders of occupancy numbers are treated for the purpose of guarding the alleged State rights against encroachments by occupancy holders. No man has a right except under permission from the Government officer concerned to cut the trees that grow on his own proprietary *málki* numbers. This is against all law, all rules and decisions of Courts of Law applicable to the use of real property, as also against equity, justice and good conscience. The matter of obtaining permission again is not an easy task. There are several grades and descriptions of officers who alone are authorized to give such permission. The issue of permission presupposes the passing of a *kabuláyat* or agreement by the applicant to Government restricting himself in so many ways and binding himself in such a tooth-and-nail manner as would shock the feelings of every sensible and reasonable man who knows how to respect human life, liberty and property. After the permission is obtained, the various tedious details of procedure pointed out above in connection with the grant of passes, stares him broadly in the face. After they are gone through, he really begins to work; but no sooner does he begin his work of cutting than another very annoying difficulty awaits him, *viz.*, the anxiety to finish it within the limited period of time granted to him for the purpose. These terms are, as a matter of course, too short, and he has not the power to exceed them. On the expiry of the time he is to present another application for permission, and an inquiry begins as to whether or not he was diligent enough to have finished the cutting in time. And if the inquiring officer is satisfied that he had used proper diligence and yet he was not able to get through his work, a fresh permission is granted and a fresh agreement is taken. But in most cases a negative answer is returned, and the poor man sits mourning over his sad fate, as he cannot avail himself of his own property, the treess, unless the next cutting season sets in, when all the procedure noted above is repeated to his great annoyance and hardship.

In many cases it also happens that the Forest limits which are most indistinct and difficult to understand with ordinary diligence, are unintentionally and unconsciously reached by the labourers employed on the cutting, and a case of theft, or criminal misappropriation of property, or any other offence is made against the owner as the principal and the labourers and servants as abettors. The work of cutting naturally stops and the work of defence begins. But in great many such cases the defence avails not and the accused is convicted merely for the offence of having possessed property, from the rightful use of which he was debarred by the arbitrary Acts of an enlightened Government, for no fault of his.

Then note further that teak, blackwood and such other trees which grow on this land are not allowed to be cut, but are reserved and left untouched as State property. With what show of right or reason Government can advance its greedy claims to such trees growing on this description of private property, we are at a loss to understand ourselves, and would therefore yield the point in favour of the Commission who can use their best endeavours to solve this puzzle. Such and many others are the grievances of the proprietors of the *málki* numbers in the *zilla*.

The next important subject of grievances is the grazing grounds or common pastures commonly known as *gurcharan* lands. Many resolutions have from time to time been passed on the subject of grazing, and many suggestions have from time to time been made as to the propriety or otherwise of allowing free access to the Forests and *gurcharans* for the purpose of grazing cattle, or removing grass in order to feed them. But it is of no use whatever to go through the provisions of all these resolutions, for an important resolution under the rulings of which the present administration of grazing lands is carried on, is found passed under date the 20th July 1885, not to speak of another which was passed only last month, No. 7467, dated 15th September 1885. The tendency of both these resolutions is to facilitate grazing conveniences, but as it is not all that the people would ask for it is advisable to notice the present conditions of *gurcharan* lands. In most villages the *gurcharans* allotted to them have been found insufficient for the grazing purposes of the villages for the reasons, firstly, that the whole area so apportioned is not capable of growing grass owing to a great portion thereof being *kharába* or *khadak* land; 2ndly, that in most cases Government sells away the right of removing grass in what are called protected forests and waste lands, and the contractors unnecessarily molest the surrounding villagers in the use of the *gurcharan* lands; 3rdly, from non-forest villages a kind of fee is levied which deters not a few villagers from grazing their cattle in the *gurcharan* owing to want of funds; and 4thly, the kind of grass grown in a majority of these lands is not commonly allowed to be taken by those who require it for feeding cattle, but is limited in most cases to cattle belonging to those who own lands in the village.

It is true indeed that the inhabitants of Forest villages other than professional graziers are allowed to graze their cattle free of charge and also allowed to cut free of charge, for their own use, grass in the unclosed compartments of the Reserved forests, and in the Protected forests. But this privilege does not extend to non-forest villages and half the conveniences of grazing therefore are shut out to the public from the forests, Protected and Reserved.

In former times the milk-selling classes of the community, such as the Dhangars and Gavlis, used to get free pasturage from wheresoever they pleased, and a number of cattle could, therefore, be fed; so that most of the necessaries of a Hindu subject's daily life such as butter, milk, clarified butter, and so on, were supplied by these classes to the neighbouring villages and also to distant towns in abundance, and at comparatively cheaper rates. But these rights of free grazing having now been taken away from them and the lands available for grazing being scanty and insufficient, and the restrictions and exactions imposed thereon being very great, these classes have desisted from any further dealing in these milk commodities and thereby a great deal of inconvenience is caused to the general public, and much loss naturally entails upon these poor dealers. Then the absence of a sufficient supply of grass has again told heavily upon the feeding and breed of cattle, and as compared to former years the proportion of cattle now owned either by the agricultural or non-agricultural classes, is very small as will be shown by another statement. It must be borne in mind that cattle are not only useful in agricultural matters, but they also serve many other purposes. In India, and in this Presidency in particular, bullock power is used for many purposes. The immense number of labour carts which we see in Bombay and other trading towns of the Presidency is generally worked by bullock power. The carts that are used for carrying merchandise to a large extent up and down the Ghats are worked by bullock power. In garden *tálukás* such as Bassein, Máhim, Dahánu, the Bándora district in Sálsette, and so on, immense deal of labour is taken from bullocks, *viz.*, to draw water from the wells either by means of a Persian wheel or other instrument. The oilmongers work their presses also by bullock power and even the Dhobi carries his clothes on the backs of bullocks, not to speak of the heavy traffic of *bhát* in the Murbád, Karjat, Kalyán and other *tálukás* which is largely carried on by means of pack bullocks. It would not be out of place to mention that in the coast *tálukás* as also in the interior the inhabitants are too much in the habit of working their favourite *reklás* by means of pet bullocks. So, not to increase instances, it is enough to say that on account of the want of grass to feed them there is a great demand for cattle,

for their price is largely increased; and too much inconvenience is caused thereby both to agriculturists, the Gavlis and Dhangars, and to every possible section of the community requiring cattle service.

Passing on from the subject of *gurcharan* lands we reach in proper sequence the branch of *ráb* which according to the Government Resolution quoted at the beginning of this complaint, seems to be a subject of great importance in the estimation of Government as also in the estimation of the members of the Commission, who have themselves published a set of questions, mainly bearing on the subject of *ráb*. To the general public too it is no less a question of importance than to the Government or to the Commission. It is beyond the power of language such as we can command, to sufficiently describe the importance of this subject of *ráb*. *Ráb* is the very life of Konkan agriculture. In most soils in the district of Thána, cultivation without the aid of *ráb* is absolutely impossible. It would not be too much to say that it is the *sine qua non* of Konkan cultivation. It is no wonder therefore that the Government and the Commission seem to be intent upon making a sufficient provision thereof. But the questions that are published with the Government Resolution and those that are published by the Commission, make it somewhat plain that Government should be glad to introduce a substitute for *táhál ráb* if they could find any. Scientific experiments are being tried at the hands of one of the members of the Commission under the auspices of Government, to ascertain if a proper substitute could be found. The object of Government in thus trying to find out a proper substitute for *ráb* is perhaps to do away completely with the right of the rayats to cut *ráb* from the forests of the district. Whatever may be the object of Government, or whatever may be the results of the scientific experiments now being tried, and notwithstanding whatever opinion may be given by Mr. Ozanne or other scientific scholars, it is our present firm belief and conviction, and we will prove it by reliable and authentic evidence, that there is no proper substitute for woodash-manure enough for the purposes of the cultivable land in the *zilla*. Most theories are difficult to work in practice, and the *ráb* substitute theory would appear to us to be no exception. It simply reminds us of an English farmer's story who set the profound and solemn views of a political economist at defiance when the latter tried to force them on him as an improvement on his working plans. Cowdung is now and then used for *ráb* and is a good substitute for *táhál*. But we are quite sure, looking to the number of cattle at the service of the agriculturist and for other reasons, it is *quite inadequate* to the wants of the agricultural classes, besides its being costly. In the *táluka* of Sálsette in particular, and to some extent in the other *tálukás* of this district, rotten dry fish, known among the people as *kuta*, is used as manure, but if we mistake not, it is in most cases used as *after* manure and not quite a *substitute* for *táhál* to burn the ground. It is in very rare cases that it is used as a substitute proper. But this is quite insufficient and enormously costly and no rayat can afford to depend on that alone for his *ráb*.

Such being our belief, which we hope to substantiate, we think the present deplorable position of the *ráb*-requiring population must be brought before the searching eye of the Commission so that they may extend their enquiries in that direction also.

The following extracts from the Resolution of Government passed on the Forest Settlement reports will show under what restraints the agriculturist has to work his way to *ráb* materials from the State forests. "In the Reserved forest area the inhabitants of forest villages should be allowed to take free of charge for their own use from the unclosed portions, and with the permission of the Divisional Forest officer from the closed portions, grass, reeds, leaves, (other than those of *tembhurni* and *ápta*) the ten classes of shrubs specified in the margin and generally all brushwood of no value for any other purpose. The Reserved forest block, should be divided into a number of compartments of which one or more should be cleared yearly, the timber being felled for sale and then closed for a period of years, cutting being thus made in rotation, and the block being worked on scientific principles. The inhabitants of forest villages in which the block is situated and adjacent villages in whose forest blocks no cuttings were that year being effected, should be permitted to cut and remove not only the brushwood, &c., in the compartment in which the trees were being felled, but also both before and after the trees had been felled to lop and take all the twigs, branches and small boughs not required by the Forest Department for manufacture into fuel.

*Korinda, Ukshi, Bakali, Kuda, Kálákuda, Gomeli, Kevni, Torni, Bhorjámbul,* and *Bhokad.*

"In respect of *ráb* privileges in Protected forests, the inhabitants of the villages in which such forests are situated, may, in addition to cutting reeds, grass, brushwood, &c., lop for *ráb* the side branches but not the leading shoot, of all trees growing in the Protected forest except those marginally noted. The lopping of *ain, dhávda, bonda,* and *nána,* (which are held in special favour for *ráb*) should be allowed.

Teak, blackwood, *tivas,* mango, *khair, kalam, bibla, asána, koshim* and *hed.*

"The privileges thus accorded to the inhabitants of forest villages cannot be extended to the inhabitants of non-forest villages. If these are unable to obtain from the *varkas* lands comprised in their holdings sufficient supply of materials for *ráb,* they must procure what they require, by purchase from private dealers or from the Forest Department."

Government would by these means appear to make a substantial difference between the forest and non-forest villagers, the latter being left to the absolute mercy of chance.

Do Government by this mean that non-forest villagers are not cultivators requiring *ráb* in quantities required by the forest villagers; or do they mean that they are necessarily rich enough to buy the *ráb* materials ? If neither, how could Government have failed to see the ruinous consequences of this policy. It cannot be supposed and much less substantiated, that Government cannot afford to lend the State forests in favour of both. Then what is it owing to that a lengthy document, sufficiently exhaustive and clear in all its positive injunctions, should have left untouched and undetermined the wants and requirements of half the community ? The Resolution does not say that Government would supply funds to purchase *ráb* materials to the non-forest villagers. Then what means would Government suggest to enable the cultivator to buy them ? So far as we know the utter wretchedness of the cultivating population as a class we fail to see how they can afford to *buy* what they require for the cultivation of their lands. They, who by hard toil the whole day long, are scarcely able to make both ends meet, and are therefore required to live from hand to mouth, with a glaring chance of absolute starvation during some months of the year, should *buy* their *own ráb* materials is a theory which cannot stand for a moment. This is equal to the tradition about a late Emperor of Delhi asking his subjects to feed on sugar, ghee and wheat if they could not get rice in days of famine.

With respect to firewood and other requirements besides *ráb* the orders of Government are similar to those quoted above in respect of *ráb* with slight variations. The distinction between forest and non-forest villages is also kept in that behalf, for what reason we surely do not see. The removing of thorns and other common brushwood too would appear to bear unnecessary restrictions such as passes, although free, &c. If *ráb* is necessary or any other material is necessary for the carrying out of agricultural operations, the necessity for "thorns" like *karandi* is in no degree lesser, for the cultivator must take care of his fields and guard them against the trespasses of stray cattle and night-pilferers. They are, therefore, naturally expected to put round their fields, as also round their house compounds, fences or hedges. Thorn hedges are stronger and safer, which are therefore, in special favour with the people. Restrictions on the removal of thorns, therefore, are harassing and uncalled for.

It is needless to enter into minute particulars of the inconvenience caused by the Forest Act and the rules framed by the Bombay Government for its administration under Section 41 of that Act and we would not, therefore, add to what has already been stated under the various heads of the part of grievances, but will simply content ourselves by saying that it is not only the agricultural and other superior sections of the community that are affected by the working of the aforesaid rules, but even the lowest orders of the community have been sorely affected thereby. The succeeding paragraph will show how these people used to get their livelihood from the various lands of the District of Thána, and the detailed circumstances mentioned above will show how difficult it has now become for them to earn their day's coarse food, and to save themselves and their families from the brink of utter starvation.

In the villages of this District the jungle tribes such as Várlis, Dublás, Kátkaris, &c., have from ancient times lived in the depths of forests and on the slopes of hills, earning a precarious livelihood by clearing and cultivating coarse grains in small patches of ground on the steepest and most inaccessible hill slopes,—a practice known as *dalhi* cultivation;—and by gathering and consuming or selling such forest produce as bundles of grass, wild flowers, and fruits, medicinal herbs and roots, wild honey and wax, procured often at imminent risk to their lives, and always after much toil and hardship, while for their humble dwellings they have always used the common woods which are most abundant, with reeds for the walls, and leaves and creepers for thatch, and sufficient fuel for their daily household wants, and a small store for the rains and the winter season.

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## Part III.

### *Remedies.*

The preamble to the Government Resolution No. 5977, dated 24th July, 1885, Revenue Department, is in some parts of it very encouraging, and we are induced by the most forcible and inviting language of it to take upon ourselves the hard but necessary duty of suggesting certain remedies which we consider will be "beneficial to the interests of the people" and of the Crown, if applied to the redressment of grievances complained of in the 2nd part; in that they will "secure an efficient management of forests," provide "for a continuous supply of timber," and supply all the necessary wants of the people inhabiting the Presidency of Bombay, (particularly the district of Thána), which would appear to be the main object Government have been striving to attain by the appointment of the Commission. The conservation of forests is an essential element in the proper administration of the country; and it is no wonder, therefore, that Government are desirous of enlisting the sympathy, and securing the "hearty co-operation," of the people in forest conservancy and with the Forest Department. To create, promote and preserve good feeling and harmony between the governors and the governed, is indeed the established policy of every

civilized Government, and that the British Government as the foremost of them all, has all along been strictly and studiously maintaining this first principle of Modern Politics and International Law in the discharge of all its gubernatorial functions, is a fact patent to every reader of history.

The very first step to secure this feeling and harmony is to scrupulously and rigidly maintain the legitimate rights of the subject population and to remove every obstacle in the way to their enjoyment of those rights. If therefore, instead of striving to generate and foster a feeling of attachment on the part of the rayats to their governors, the officers of Government were to endeavour by every means in their power to create discord and dissatisfaction by depriving the people of those rights, the sole aim and object of good Government is utterly frustrated. In the language of a native musician, the connection between the Governor and the governed is the same as exists between the instrument and the player upon it, and is therefore, a connection which would stand or break accordingly as the wires are brittle or malleable and are skilfully or roughly handled. Every touch of the cord that sorely touches the hearts of the rayats should be denounced as unfit to maintain a free and healthy action of the string. If you stretch the cord too far it injures the pulled and if you leave it lax it injures the puller, and in either case the result is undesirable. It is extremely injurious to both. The policy should therefore be always conciliatory. Government should neither put the people completely out of their rights nor suffer them to wantonly abuse the forests to the detriment of themselves and the Crown; chalk out a middle course and the connection remains unbroken and becomes everlasting.

Another feature in the conduct of Government officials is want of frankness in their behaviour to the rayats. They produce many undesirable and unwholesome results simply by observing an unnecessary secrecy about everything of importance which leaves the people in utter ignorance of the real intentions of Government on various matters; and this has taught the people to view all such actions of Government and its officers as are covered by a veil of secrecy with great suspicion. Owing to this unwise step many well-intentioned measures of Government are received by the people with a degree of reluctance simply for the plain fact that they are not made acquainted with the real intentions of Government in adopting such measures. Similarly, whatever the people do towards the maintenance of their forest rights is almost invariably taken by the forest officers to mean a dereliction of duty, while it is the plain duty that the rayat does in the interests of his cherished rights. Such conduct on the part of both the officers and the people, is censurable, for it is quite opposed to the rules of Society.

By way of illustration we can take this opportunity of expressing it as our opinion that it is probably owing to this policy of secrecy that the members of this Commission, though intent upon dealing out proper justice to the utmost of their power, and apparently desirous of giving every facility to the petitioners, memorialists and complainants that would be sending in their respective petitions, memorials, or complaints to them for inquiry and decision, were compelled, in all probability for want of orders from Government in that respect to keep from the knowledge of the people the statement which Government have supplied them under the provisions of the Resolution of Government quoted at the commencement of the 3rd paragraph. If the people are invited to submit applications and petitions and memorials and complaints, and to state their cases in support of the right they may be urging, and to be ready to substantiate the allegations they make in their petitions or memorials, (and all this to be done by the 20th October 1885) is it not just that they should have been placed in full possession of the grounds on which Government claim to themselves every sort of right connected with the enjoyment or ownership of the trees and jungles? We think justice unreservedly answers "yes." Are they not virtually compelled to grope in the dark to prepare their answer to this statement of the Government? Are the complainants to frame their answers on mere conjecture?, and we confess we had a great difficulty in framing our history part of this complaint.

Our object in framing that statement is to put it in opposition to that prepared by Government and in the absence of a copy of the latter it was by mere conjecture that we have had to work that part of our complaint out. Thus to leave people in ignorance of the statement of the rights of Government and then to call upon them to meet those rights is surely unkind. In every Court of Justice one party is kept in possession of copies showing the nature and character of the others' claim and he is then called upon to meet those claims, and *vice versa*. But here the rayats have to work out their way to a decision by the Commission on their rights in complete ignorance of the nature and character of the rights put forward by Government. Government could very easily have avoided all this and given complete satisfaction to the intending memorialists, petitioners and complainants, if they were to rule that every such petitioner, memorialist or complainant should be put in possession of a copy of the statement which the Government had promised in their Resolution to supply to the Commission, on payment of a reasonable price if they chose to fix one.

To be brief such and many others, detailed fully in the I. and II. parts are the causes which lead to a friction, if any. To remove this friction is indeed one of the objects of Government in appointing the Commission. We would, therefore, try in the following paragraphs to lay before the Commission a scheme which substantially constitutes our prayers; and we sanguinely hope that if that scheme was recommended by the Commission

for the adoption of the Government of His Excellency Lord Reay, our esteemed and beloved Governor, every satisfaction will be given to the rayats, and everything necessary for the attainment of the objects set forth at the beginning of the chapter secured, without the assistance of Law or Courts. Our proposals are :—

1. The present demarcations and nomenclature of forests should be changed in such a manner as to exclude all rice or *kharif* and *varkas* lands, garden and *shindád* holdings, and all village sites and lands of private individuals, from the operation of the Forest Rules. The remaining waste and hill lands should be called "Public Forests." The various uses of these forests will be explained in the subsequent paragraphs. Now that the Bombay Government has virtually annihilated the distinction between Reserved and Protected forests there would be no serious objection in getting rid of these names in favour of the one we have proposed above, *viz.*, "Public Forest." Furthermore as the Protected forests mainly consist of *varkas* and *shindád* holdings of private persons and of public grazing lands and unoccupied waste lands, and the intended uses and objects of these lands have been clearly set forth in the following proposals which are calculated to sufficiently answer the purposes the lands have been at present answering, the public will naturally accord their sanction to the change above suggested with one voice.

2. That it should be publicly declared once for all that the holders of all rice (*kharif*), *varkas*, garden and *shindád* lands, and the owners of lands on village sites, are the absolute proprietors of the soil thereof and as such proprietors have every right to deal with the soil and the trees and other produce of those lands, in any way they please, and that Government should never interfere with their rights and enjoyment.

3. That the materials for *ráb* and for implements of husbandry, and building materials for the houses of agriculturists and the wild tribes, and dry and green wood for fuel for the domestic use of all the resident villagers and for local industries, should be collected by all people requiring them from their *varkas* and *shindád* lands in the first instance, and should they be unable to get sufficient quantity of *ráb*, &c., for the requirements of agricultural, &c., from such lands the Public Forest should be open to them without let or hindrance to cut and take these materials and wood from, no limitation of any sort or description being imposed on their rights so to do, save and except for the *bonâ fide* purpose of checking an intentional abuse, or preventing danger to the Public Forest or its produce. It having been erroneously supposed that the pruning and cutting of teak and other timber trees for *ráb* purposes is injurious to the growth of trees, (the fact being that such pruning and cutting is beneficial instead of injurious to the growth of the trees) the restriction to cut for *ráb* only a certain description of trees should be altogether removed and discontinued as unnecessary and impracticable.

4. That non-agriculturists, requiring timber for building purposes should be allowed to cut and take it from the Public Forest subject to a reasonable fee (or price) and on permission from the nearest Local Native Revenue officer in charge of a *peta* or *táluka*, for the purpose; the greatest possible care being taken not to cause the least obstruction or delay to the person so requiring, provided he be ready to tender the necessary amount of fee and take the required permission.

5. That the resident villagers should be allowed to collect all sorts of fruits, roots, barks for medicinal purposes, herbs, vegetables, leaves and thorns of *karand*, &c., *kárvis*, bamboos, reeds, creepers, honey, grass, flowers, and such other forest produce, for their domestic consumption.

6. That the resident villagers should have the right of grazing their cattle in any part of the public forest.

7. That professional graziers such as Dhangars should not be allowed to graze their cattle in the Public Forest without payment of a small fee, say annas four per year per head of cattle payable to the *talâti* or other village officers.

8. That the demands of trade alone should be met by the Government depôts which should be kept at such proper distances and should contain all such kinds of supply of timber as is generally required by the traders according to the wants and requirements of the time. There would appear to be no objection to make it compulsory for traders to obtain a pass from the depôt-keeper on payment of a moderate fee with respect to the transit of timber either by sea or land. At the option of the nearest *mámlatdár*, this may be dispensed with under special circumstances of which the *mámlatdár* should be satisfied.

9. If in the interests of the public revenue Government feels inclined to farm out or give in contract or sell the timber growing in a public forest subject to the rights and users of the public, it may do so on reasonable precautions being taken to guard the Public Forest against the abuse thereof on the part of the contractors, who as a class are, more or less, in the habit of not always keeping themselves within the limits of their contract terms. To the case of such contractors all the transit rules made applicable to the ordinary traders should be made applicable. But so far as practicable Government should not allow any Public Forest to be cleared up by contractors but should ask the Forest Department to do so itself for them. A deviation from this rule should only be allowed in case of extreme necessity and as a special case.

10. That the resident villagers should be allowed to cut from the public forests such timber as may be *bonâ fide* required for the building or repair of public buildings such as temples, serais, *dharmsháláś*, &c. In such case the nearest *mámlatdár's* permission to cut trees should be required.

11. That no kind of distinction should be observed between the forest and non-forest villagers as to their right over and use of, the public forest, save and except the fact that in the case of non-forest villagers the Public Forest would be understood as meaning the Public Forest of the village from whose jungles it was customary for the non-forest villagers to get their *ráb*, &c., from.

12. That except as aforesaid the *pass and fee* system should be altogether abolished as unnecessary, harmful, ungenerous and impolitic.

13. That the wild tribes should be allowed to gather and sell fallen wood and to gather and sell such forest produce as honey, wax, fruits, roots, flowers, gum and the like, except timber, from the public forest; and that they may be allowed to continue their *dalhi* cultivation on the mountain slopes in such a manner as to be consistent with the safety of the Public Forest.

14. That the system of granting contracts to gather, or cut and remove certain description of forest produce other than timber, such as *apta* and *tembhurni* leaves, &c., from the Public Forest should be put a stop to.

15. That an abuse of the rights and privileges above mentioned on the part of the rayats should not, as at present, be punished by a criminal prosecution, but by money compensation to be made by the party in fault to Government. The amount of such compensation or damages should be ascertained by a *Panchâyat* consisting of at least three respectable persons from the village nearest to the Public Forest in which the offence is committed. This procedure will save unnecessary pain, trouble and annoyance to the offender and fully recoupe Government the loss which might be entailed upon them by reason of such abuse.

16. That in conclusion we would humbly suggest that the present stringent, oppressive and harassing policy of conservancy should be at once supplanted by a more lenient, just and equitable scheme of forest administration in the spirit and to the effect of the humble proposals submitted above; and we make no hesitation in stating that unless it be done the people's sufferings would be simply indescribable to mention and unbearable to see.

To His Excellency the most Noble the Marquis of Ripon, K.G., G.M.S.I., & G.M.I.E.,

Viceroy and Governor-General of India.

*The Humble Memorial of the Undersigned Inhabitants of the Thána District.*

Most Respectfully Sheweth,

That your Memorialists being sorely distressed by the operations of the several rules and orders from time to time made by the Government of Bombay and its executive officers in the administration of the forests in the Thána Collectorate, and especially by the operation of the Indian Forests Act VII. of 1878, as interpreted and enforced therein by those authorities, venture to lay their wrongs and grievances before your Excellency in Council, in the hope and with an earnest prayer that your Excellency in Council will be pleased, so far as the exigencies of State and the circumstances of the case will permit, to redress those wrongs and remove those grievances in accordance with the terms of the prayers and suggestions set forth at the end of this their memorial.

2. The inhabitants of the Thána Collectorate may be divided generally into two classes *viz.*, (1) the wild or jungle tribes, such as Thákurs, Kátkaris, Vadkaris, Bhils, Kaikádis Várlis, and Vághris, who live, and always have lived, in the forests and wastes on the hill slopes; and (2) the inhabitants of the several towns and villages throughout the Collectorate.

3. Both classes have from time immemorial exercised and enjoyed certain rights and privileges in and over the village, public and Government forest, waste, and pasture lands, the exercise and enjoyment of which, while of the utmost benefit to them, have been innocuous to the interests of Government.

4. Thus the rayats of the second class above mentioned, *i.e.*, the inhabitants of the towns and villages throughout the Collectorate, have from time immemorial enjoyed and exercised the rights and privileges (among others), of cutting and removing from the village, public and Government, waste, forest, and pasture lands (*a*) firewood for fuel for house consumption, and even, to a limited extent, for sale and exchange for the necessaries of life; (*b*) wood for building and agricultural purposes; (*c*) branches, twigs, and leaves and grass for the purpose of *rab*, or burning on their lands for manure, without which cultivation is impossible; (*d*) of grazing their cattle in the village, public and Government waste, pasture, and forest lands; (*e*) of ownership in, and the right to dispose of, trees growing within the limits of the compounds of their dwellings, and on their proprietary lands, and occupancy holdings, and fruit and other trees planted by them and their ancestors on the faith of assurances held out to them in proclamations issued in 1847 and 1850 under the sanction and authority of Government (and to be hereafter more particularly alluded to,) that trees so planted should become their private property; while that numerous and abjectly poor class of your Memorialists, who consist of the jungle tribes abovementioned, have in like manner from ancient times lived in the depths of the forests and on the slopes of the hills, earning a precarious livelihood by clearing and cultivating coarse grains on small patches of ground on the steepest and most inaccessible hill slopes,—a practice known as *dalhi* cultivation,—and by gathering and consuming, or selling such forest produce as bundles of grass, wild flowers and fruits, medicinal herbs and roots, wild honey and wax procured often at imminent risk to their lives, and always after much toil and hardship; while for their humble dwellings they have always used the fallen and useless wood found in the forests, and reeds, creepers and leaves for the purposes of thatch, and sufficient fuel for their household wants and to protect them during the rainy and winter seasons.

5. These rights and privileges, exercised, recognized and maintained under the native Governments, have in like manner (except in certain instances where they have been encroached upon and curtailed by the orders of the Revenue and Forest officers in the Collectorate), since the introduction of British rule, been substantially exercised by your Memorialists, and recognized and maintained, in the opinions and reports of experienced Government officers, by the proclamations, Resolutions, rules and legislative enactments of the Government, by the various Survey Settlements that have from time to time been effected of the different *tálukás* of the Collectorate, and by decisions of Courts of Justice. Notwithstanding that your Memorialists have many and grave grounds of complaint against the various and harassing orders and steps by which their rights and privileges have been encroached upon and curtailed previously to the passing of the Indian Forests Act VII. of 1878, they have abstained from laying their grievances before your Excellency in Council, in the hope that they might eventually obtain redress at the hands of the Local Government, especially after the instances in which certain of their rights infringed had been vindicated in the Courts of Justice; but the passing of the Indian Forests Act and the construction and effect given to it in the Thána Collectorate have destroyed all such hopes, and have reduced all classes of your Memorialists to such straits that they have no resource but to lay before your Excel-

lency in Council their grievances and their prayer for redress, which they trust will not be considered to be unreasonable, or based on grounds without foundation, or actuated by purely selfish motives and a disregard for the public welfare and the interests of Government. Your Memorialists humbly but earnestly assure your Excellency in Council that they, too, are fully alive to the wisdom and the necessity of a good and effective system of forest conservancy—as they trust the very nature of the measures suggested by them will show—but they humbly protest that private rights should be respected, that faith should be kept with assurances made, and that all measures should be avoided and abandoned which tend to render titles uncertain and shake the confidence of the rayat in the stability of his proprietary rights and interests in the land, and so to discourage agricultural industry and enterprise. Such, unfortunately, has been the result of the passing of the Forests Act and the mode of its enforcement in the Thána Collectorate, under which no regard or tenderness is shown for private vested rights, long-established and much-cherished privileges, or the deep poverty of the great mass of your Memorialists. Added to the personal sufferings induced by the operation of the Act and the measures adopted under it, is a universal feeling of consternation and dismay at what appears to be an arbitrary resumption of private rights and estates and an intention to disregard former assurances solemnly made, and a widespread feeling of distrust and insecurity that cannot fail to produce disastrous results.

6. Your Memorialists have stated that, under the Governments that preceded the British, they exercised and enjoyed the rights and privileges to some of which a general allusion has been made above, and they believe that the fact is beyond controversy. Of the Collectorate of Thána the Islands of Sálsette, Elephanta, and Hog Island were acquired by conquest; the remainder by cession. According to the principles of modern international law and the principles always adopted by the British Government, private property in the land remained unaffected either by the conquest or cession, and, indeed, were expressly guaranteed by proclamations issued in 1817 and 1818, copies whereof are annexed, and marked (121, 122, 123). A large number of your Memorialists hold their lands by proprietary right which can be traced to a period antecedent to the conquest and cession; others, and a numerous body, are *ináindárs, sutidárs* and persons holding their estates also by proprietary right, but the origin of whose titles is not quite so clearly deducible as in the other cases, and the rest have acquired occupancy rights under the various settlements made from time to time, with the consequent rights in the trees on such holdings given by the Legislature. The proprietary right of the rayats in the lands, in Sálsette is distinctly admitted and recognized in Bombay Regulation I. of 1808. With such proprietary right in the land would go, according to the first principles of English law, *the proprietary right* to the trees growing thereon; and, as will be seen hereafter, in several instances such proprietary right in the trees on land so held has been affirmed in favour of the rayat by decisions in Courts of Law. Yet no distinction is made by the rules and orders issued under the Forests Act by those entrusted with its administration in the Thána Collectorate between lands held and owned under a proprietary title and any other lands. All alike are declared Reserved or Protected forest; in all alike are imposed the most harassing restrictions on the exercise of your Memorialists' rights and privileges.

7. A reference to Bombay Regulation I. of 1808 (which extended only to Sálsette), and especially to sections 4, clause 3; 36, clauses 18, 19; 54 and 55, will satisfy your Excellency in Council that the rights and privileges alleged by us in the earlier part of this memorial to have been enjoyed from ancient times were distinctly recognized, as was the proprietary right of the rayats in fruit and other trees grown on their lands, and the existence from of old of the *dalhi* system of cultivation.

8. On the 1st March 1824, Mr. Dunlop, Collector and Magistrate of the *zilla* of the Southern Konkan, (a great portion of which *zilla*, as it was then constituted, is now comprised in the Thána Collectorate), on behalf and under the authority of the Honourable English Company, issued a proclamation that beyond the limits of the Government preserves at Bándh, Tudil, Vinhere and Málvan, the Government abandoned all right to teak and other trees which might be growing in any person's land, and declared that the owners of trees, or those who should thereafter raise them on their private lands, would be allowed to dispose of them according to their pleasure. A copy of this proclamation is annexed, and marked (4).

9. That this proclamation is still of binding force and effect is shown by the case of the Collector of Ratnágiri *v.* Vyankatráv R. Surve, 8 Bom. H. C. Rep. A. C. J. 1, (to which your Memorialists humbly crave the attention of your Excellency in Council). In a letter dated the 31st October 1831, addressed to the Secretary to Government, the Collector of Thána, while claiming that throughout Sálsette and in most parts of the Southern Konkan "teak trees wherever growing were considered the property of the State," (a claim proved to be without foundation by the decision in the case of Atmárám Nilkant Tipnis *v.* Collector of Thána, to be hereafter mentioned), admitted that "the prohibition against cutting them in the Southern Konkan was removed (with the exception of the reserves of Málvan, Suvarndurg and Tudil), and *Government gave up to the rayats all claims it might have on those trees.* In Sálsette, however, the prohibition has been retained, and Government still possesses a right to all teak trees, *except in villages which have been made over to proprietors.*" A copy of this letter is annexed, and marked No. 5.

10. In 1847 proclamations were issued under the direction of the Government that every holder of land should plant useful trees in their own lands and in such waste lands as

might be in the vicinity of villages, and that whoever did so plant trees should have their proprietary rights therein recognized, and that trees planted by villagers on village waste or pasture lands should be the sole property of the villages, free from all claim by Government. Copies of these proclamations (to promulgate which widely special pains were taken) are annexed and marked 6, 7, 8.

11. Similar assurances were made to the rayats in consequence of orders issued in 1850, as will appear from the circular order, a copy of which is hereunto annexed and marked (129).

12. Acting on the faith of the assurances contained in these proclamations of 1824, 1847, 1850, many trees have been planted by your Memorialists and their ancestors on village waste and pasture lands and on their own private lands, only to find them now all claimed by the Forest Officers and Government as Government property.

13. That the right of *inámdárs* and *mirásdárs* and *sutidárs* to cut trees growing on their lands was admitted by the Government in 1847 never to have been interfered with, either under the late or the British Government, is clear from the extract from circular orders hereunto annexed.

14. By the Joint Rules which obtained the sanction of the Government and the force of law in 1848 and which were in force in the Thána Collectorate, it was provided by Rules 2 and 10 that—

"2.—All cesses upon land have been absorbed in the new assessment; consequently, when there are fruit trees in a field, their produce is to be taken by the cultivator, and nothing beyond the assessment placed on the field levied on that account from him; but in the case of valuable fruit and other trees standing in fields *assessed at dry-crop rates, and* not in cultivation at the introduction of the Survey, and the produce of which it has hitherto been customary to sell on account of Government, the right of property in these trees and of occupancy in the field, should be *offered at a fair upset price, and* sold once for all by public auction to the highest bidder, and nothing in excess of the survey assessment thereafter exacted. But if no one offer to undertake the cultivation of the field on these terms, the produce of the trees may be sold annually, according to custom."

"10.—Proprietors of *inám, judi,* and *mirás* lands, having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein, *and also holders of Government fields, of which they have been in uninterrupted occupancy from a period anterior to the age of the trees, or for a period of twenty years, or who have purchased the trees under the provisions of Rule 2.*"

It is impossible to conceive a clearer recognition and enforcement of the right of proprietors at all events to the trees on their lands.

15. The Survey Settlement was introduced into the Thána Collectorate in 1855, and the different *tálukás,* namely, Karjat, Panvel, Kalyán, Murbád, Bhivandi, Sáshti, Bassein, Máhim, Sháhápur, Váda and Dahánu were successively brought under settlement with the following results, *viz* :—

1. *Táluká* Karjat and its *peta* Khálápur brought under Survey Settlement in the years 1854-55 and 1855-56.

Area, 356 miles.

| | Acres. |
|---|---|
| Fit for cultivation ... ... ... | 81,203 |
| Uncultivated ... ... ... ... | 50,522 |
| Jungle ... ... ... ... | 46,476 |
| Villages, roads, tanks, rivers, &c. ... ... | 27,239 |

Population (82,063), of whom part live in jungles and maintain themselves thereon. These are :—

| | |
|---|---|
| 1. Thákurs ... ... ... ... ... | 8,616 |
| 1. Kokanis ... ... ... ... ... | 3,719 |
| 1. Kátkaris ... ... ... ... ... | 8,586 |
| 1. Vadkaris ... ... ... ... ... | 48 |
| 1. Bhil ... ... ... ... ... | 1 |

Public Revenue, Rs. 1,20,610.

1. *Táluka* Panvel, brought under Survey Settlement in 1856-57.

Area, 307 miles.

| | Acres. |
|---|---|
| Fit for cultivation ... ... ... ... | 76,691 |
| Uncultivated ... ... ... ... | 8,959 |
| Jungle ... ... ... ... ... | 39,132 |
| Salt land or soil ... ... ... ... | 4,012 |
| Villages, roads, tanks, &c. ... ... ... | 6,926 |

Population, 101,181.

Living in jungles and maintaining themselves thereupon :—

| | |
|---|---|
| 1. Kokanis | 7,636 |
| 1. Thákurs | 3,611 |
| 1. Vadárs | 107 |
| 1. Kátkaris | 4,309 |
| 1. Bhil ... | 387 |
| 1. Kaikádis | 29 |

Public Revenue, Rs. 1,98,140.

1. *Táluka* Kalyán, brought under Survey Settlement in 1858-59.

Area, 278 miles.

| | Acres. |
|---|---|
| Fit for cultivation | 100,716 |
| Uncultivated | 26,097 |
| Jungle | 12,285 |
| Villages, roads, tanks, rivers, &c. | 32,262 |

Population, 77,988; of whom foresters :—

| | |
|---|---|
| Kokanis | 2,976 |
| Thákurs | 4,955 |
| Kátkaris | 5,322 |
| Bhil | 1 |
| Kolis | 589 |
| Vadkaris | 144 |
| Várlis | 37 |
| Vághris | 23 |

Public Revenue, Rs. 1,39,070.

The rayats have acquired rights of use over all trees in forests by the Survey Settlement, except those of the two sorts of teak and blackwood.

1. *Táluka* Murbád, brought under Survey Settlement in 1859-60.

Area, 351 miles.

| | Acres. |
|---|---|
| Fit for cultivation | 127,495 |
| Pasture lands | 7,875 |
| Government jungle | 16,498 |
| Public jungle and pasture land | 61,072 |
| Villages, roads, tanks, &c. | 4,820 |

Population, 63,932; of whom foresters :—

| | |
|---|---|
| Kokanis | 3,047 |
| Thákurs | 11,366 |
| Kátkaris | 2,633 |
| Vadkaris | 127 |

Public Revenue, Rs. 90,600.

The rayats have acquired rights of use under Survey Settlement over all trees, except teak and blackwood.

1. *Táluka* Bhivandi, brought under Survey Settlement in 1860-61.

| Area, 250 miles. | Acres. |
|---|---|
| Fit for cultivation | 73,300 |
| *Gavphare* pasture lands | 66,641 |
| Government jungle | 7,259 |

Population, 75,363 foresters :—

| | |
|---|---|
| Kátkaris | 4,838 |
| Thákurs | 2,254 |
| Várlis | 1,378 |
| Hunters | 18 |
| Vághris | 44 |
| Kaikádis | 35 |
| Bhil | 2 |

Public Revenue, Rs. 1,39,250.

1. *Táluka* Sáshti, brought under Survey Settlement in 1860-61.

| Area, 241 miles. | Acres. |
|---|---|
| Fit for cultivation | 79,486 |
| Uncultivated | 13,223 |
| Jungle and pasture lands | 22,653 |
| Villages, roads, tanks, &c. | 14,912 |

Population, 108,149; of whom foresters:—

| | |
|---|---|
| Kokanis ... | 17,929 |
| Várlis ... | 1,045 |
| Vadárs ... | 377 |
| Rámoshis ... | 15 |
| Kátkaris... | 1,029 |
| Thákurs ... | 713 |
| Bhil ... | 42 |
| Vághris ... | 8 |

Public Revenue, Rs. 1,53,300.

Excepting at Kashimire, Ghodbandar, Vyáhád, Yeur and Parshik, there is no Government jungle. Elsewhere the rayats have rights over Forests.

1. *Táluka* Bassein, brought under Survey Settlement in 1861-62.

Area, 221 miles.

| | Acres. |
|---|---|
| Fit for cultivation ... | 64,098 |
| Uncultivated ... | 2,859 |
| Pasture lands ... | 328 |
| Villages, roads, tanks, rivers, &c. ... | 70,635 |

Population, 68,967; of whom foresters:—

| | |
|---|---|
| Várlis ... | 7,308 |
| Kátkaris ... | 1,600 |
| Thákurs ... | 398 |
| Dublás ... | 114 |
| Bhil ... | 54 |
| Vághris ... | 52 |

Public Revenue, Rs. 1,26,710.

Trees marked under the Survey Settlement are owned by those in whose names they may be entered.

1. *Táluka* Máhim, brought under Survey Settlement in 1862-63.

Area, 416 miles.

| | Acres. |
|---|---|
| Fit for cultivation ... | 112,086 |
| Uncultivated ... | 16,606 |
| Pasture lands ... | 18,406 |
| Villages, roads, tanks, rivers, &c.... ... | 115,305 |

Population, 77,360; of whom those living in and on forests are:—

| | |
|---|---|
| Várlis ... | 9,433 |
| Kátkaris ... | 1,498 |
| Dublás ... | 392 |
| Kolis ... | 106 |
| Vághris ... | 185 |
| Thákurs ... | 25 |

Public Revenue, Rs. 1,17,650.

Excepting Asheri *Mahál* from Dahánu and two hamlets from Váda (which have been joined to Máhim), and excepting teak and blackwood, all other trees are owned by those in whose names they were entered under the Survey Settlement.

1. *Táluka* Sháhápur, brought under Survey Settlement in 1864-65 and 1865-66. Out of *peta* Mokháda, Eksamba was brought under settlement for a period of ten years, but the rest of the *peta* was not brought under settlement, owing to incomplete measurements, until 1875-76.

Area, 870 miles.

| | Acres. |
|---|---|
| Fit for cultivation ... | 250,871 |
| Uncultivated ... | 77,888 |
| Government jungles ... | 13,820 |
| Public pasture lands and jungle ... | 175,398 |
| Meadows and pastures ... | 96,600 |
| Villages, roads, tanks, &c. ... | 15,747 |

Population, 107,729; of whom those living in and on forests, &c., are:—

| | |
|---|---|
| Thákurs ... | 25,309 |
| Kokanis ... | 9,887 |
| Vadkars ... | 36 |
| Kátkaris ... | 5,619 |
| Várlis ... | 5,065 |
| Rámoshis ... | 2 |

Excepting over teak, blackwood and *tivas*, the owners have entire freedom over trees of every other description, for agricultural or building purposes. Felling Government trees for commercial purposes only is forbidden. Such have been the rights of the rayats, and were preserved to them by the Survey Settlement.

1. *Táluka* Váda, brought under the Survey Settlement in 1864-65.

| Area, 306 miles. | Acres. |
|---|---|
| Fit for cultivation | 56,688 |
| Uncultivated | 19,286 |
| Public jungle and pasture land | 42,344 |
| Government jungle | 42,838 |
| *Inám* lands | 9,724 |

Population, 36,497; of whom those living in and on forests are:—

| | |
|---|---|
| Kátkaris | 6,601 |
| Thákurs | 3,268 |
| Várlis | 2,899 |
| Vághris | 73 |

Public Revenue, Rs. 48,950.

Government have kept to themselves certain rights over private owners. The owners of the survey numbers are only allowed to fell in their respective numbers for agricultural and building purposes. Felling for purpose of trade is strictly forbidden.

1. *Táluka* Dahánu, brought under Survey Settlement in 1866-67, and its *peta* Umbargáv in 1863-64.

| Area, 643 miles. | Acres. |
|---|---|
| Fit for cultivation | 178,373 |
| Uncultivated | 42,990 |
| Free from settled assessment | 120,264 |
| Villages, roads, tanks, &c. | 70,313 |

Population, 109,322; of whom those living in and on forests are:—

| | |
|---|---|
| Dublás | 10,444 |
| Várlis | 44,238 |
| Kátkaris | 866 |
| Dhodiyás | 5,910 |
| Thákurs | 110 |

Public Revenue, Rs. 1,26,840.

Excepting the jungles of *peta* Umbargáv, the Government have elsewhere retained certain rights to themselves; owners of survey numbers are only allowed to fell in their respective numbers (except teak, blackwood and *tivas*) for agricultural and building purposes.

Such was the settlement fixed *táluka* by *táluka*. A copy from the Survey Settlement records is annexed to this Memorial—*Vide* Appendix No. II. The figures for the whole *zilla* will appear from the following table:—

| No. | Name of *Táluka*. | Area, Miles. | Population. Non-Foresters. | Foresters, *i.e.*, living in Forests & maintaining therefrom. | Total. | Extent in Acres. | Amount of Public Revenue. | Remarks. |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | Rs. | |
| 1 | Karjat | 356 | 63,093 | 18,970 | 82,063 | 205,440 | 1,20,610 | Government have reserved to themselves no rights over trees and jungles. |
| 2 | Panvel | 307 | 85,102 | 16,079 | 101,181 | 135,729 | 1,98,140 | Do. |
| 3 | Kalyán | 278 | 63,981 | 14,007 | 77,988 | 171,360 | 1,39,070 | Government have reserved no rights except over teak and blackwood. |
| 4 | Murbád | 351 | 46,759 | 17,173 | 63,932 | 217,760 | 90,600 | Do. |
| 5 | Bhivandi | 250 | 66,794 | 8,569 | 75,363 | 147,200 | 1,39,250 | As for Karjat. |
| 6 | Sáshti | 241 | 86,999 | 21,150 | 108,149 | 130,274 | 1,53,300 | Government have reserved rights only over trees at Kashimire, Ghodbandar, Vyáhád, Yeur and Parshik. |
| 7 | Bassein | 221 | 59,241 | 9,726 | 68,967 | 137,920 | 1,26,710 | Ownership of owners of survey numbers recognized. |
| 8 | Máhim | 419 | 65,711 | 11,649 | 77,360 | 262,403 | 1,17,650 | As for Kalyán. |
| 9 | Sháhápur | 870 | 61,811 | 45,918 | 107,729 | 543,384 | 1,19,950 | Rayats have liberty of rights of use over all trees, except teak, blackwood and *tivas*, for agricultural and building purposes; all other rights with Government. |
| 10 | Váda | 306 | 23,626 | 12,871 | 36,497 | 170,890 | 48,950 | Do. |
| 11 | Dahánu | 643 | 47,754 | 61,568 | 109,322 | 411,890 | 1,26,840 | Do. Government have not kept any rights to themselves over trees in *peta* Umbargáv of this *táluka*. |
| | Total | 4,242 | 670,871 | 237,680 | 908,551 | 2,534,250 | 13,81,070 | |

16. Your Excellency in Council will thus perceive that in the *tálukás* of Karjat Panvel, and Bhivandi, the Government reserved no rights over any trees or forests; and that in the *tálukás* of Kalyán, Murbád, and Máhim, the Government only reserved rights over teak and blackwood; and that in certain villages only, in the Sáshti or Sálsette *táluka*, have Government reserved any rights over trees, while in Bassein the ownership of owners of survey numbers over trees therein was recognized, and that in the *tálukás* of Shaháp ur and Váda teak and blackwood and *tivas* were reserved, the rayats having the use of all other trees for building and agricultural purposes, and that in the *peta* of Umbargáv, *táluka* Dahánu, no rights were reserved by Government.

17. By Section 3 of Bombay Act I. of 1865, existing Survey Settlements were declared to be in force, and by Section 40 it was provided that the permission to occupy unoccupied assessed land should in all future settlements include the concession of the right of Government to all trees grown on that land which had not been then specially reserved.

18. In 1868 the Government passed a Resolution that there should be no interference on the part of Government with teak and blackwood or any other trees growing on *dhára* land (a copy of the Resolution is annexed, and marked No. 165); and in the same year the Government, on the petition of one J. D. Almeida, distinctly admitted the right of the owner of land to teak and other trees growing thereon. Copy of the Resolution passed is annexed, and marked No. 167, and your Memorialists earnestly crave the special attention of your Excellency in Council thereto.

19. The rights of rayats to trees growing within their own compounds and to trees, even teak, growing on their *málki* or private lands, have been recognized and established by decisions of Courts of law, as may be seen by reference to the decisions, copies of which are hereunto annexed, and marked Nos. 172, 174, 178, 180, 185, 188, 196. Of these, perhaps, the most important is that in the suit brought by Atmárám Nilkanth Tipnis, to which your Memorialists specially crave the attention of your Excellency in Council. A special appeal was preferred by the Government from the decision in the plaintiff's favour; but on the advice of the Legal Remembrancer contained in an opinion, a copy whereof is annexed, and marked 181, and to which also your Memorialists respectfully beg particular attention, the special appeal was withdrawn, as is shown by the papers annexed.

20. At the time of the Survey Settlements the waste lands adjoining rice and other fields, and from which the cultivators of those fields had from time immemorial enjoyed the right of cutting *rább* for manure, were numbered and assessed and included in the holdings of the owners of such fields, who thereby became entitled to the trees growing on such waste or *varkas* land. This is clear from the decisions (hereunto annexed, and marked 172, 174, &c. respectively) in a suit brought by Atmárám Tipnis against the Collector of Thána and in a vexatious criminal prosecution brought against the said Atmárám Tipnis at the directions of the Collector of Thána, in consequence of the result of the suit in which Atmárám Tipnis established his right to teak trees growing on his land.

21. In addition to the facts already stated, your Memorialists humbly crave attention to the papers hereunto annexed, and marked respectively, Nos. 1 to 249, but on which, in order to avoid wearying your Excellency in Council and extending this Memorial to an undue length, they refrain from commenting at length. They submit, however, that they establish that the general rights and privileges claimed by your Memorialists for themselves at large, and the particular rights of individuals, *inámdárs, sutidárs*, and others having proprietary rights in the land, to the trees growing thereon, have been distinctly and often recognized in the opinions and reports of many experienced officers of Government; and in the Government Resolutions thereon (particularly in the report of the Committee appointed in 1863 for the purpose of inquiring into these rights, and the Resolution thereon marked No. 7); in various circular orders; in the very orders by which portions of those rights and privileges have been encroached on and restricted; in the precautions invariably taken on the granting of contracts for cutting, to ensure the maintenance of the rights of the rayats; and in the Village Register Form No. 1 until its alteration in pursuance of an order hereinafter mentioned.

22. Notwithstanding the many facts and circumstances tending to prove and establish the existence of the rights and privileges claimed by your Memorialists, orders have been from time to time passed by the Forest and Revenue Officers prior to the enactment of the Indian Forest Act, restricting and encroaching on those rights and privileges. Still many and substantial rights and privileges in the rayats continued to be recognized and allowed; but now, by the sweeping provisions of the Forest Act of 1878 and the mode of its administration in the Thána Collectorate, all these rights and privileges may be said practically to have been destroyed.

23. The enumeration of the articles comprised under the term "forest produce" in section 2 of the Act is so exhaustive as to leave nothing but air and water free, and inasmuch as sections 25, 29, 31 and 32 prohibit the rayats from the use of any forest produce, all classes of your Memorialists have been put to the greatest straits to supply their wants for household and agricultural purposes, while the numerous classes of jungle tribes have been completely deprived of all means of livelihood, and have been driven from their huts and prevented from continuing their system of cultivation.

24. There being no definition of "Forest land" in the Act, the Government of Bombay, under the powers conferred by Chapters II. and IV., have issued a notification dated the 6th March 1879 (copy whereof is annexed, and marked No. 77), declaring private numbers, though held in *suti* and proprietary right, to be Reserved and Protected forest, while the Forest Settlement Officer in those few cases of claims which have been decided by him, has summarily rejected such claims, on the ground that the claimants produced no written evidence in support of them; while far the larger number of claims have not yet been decided, though pending for more than three years, the rayats, in the meantime, being prohibited from exercising any rights over their own property.

25. The result of this notification and the subsequent orders passed has been to prohibit all cutting *even on our own proprietary and málki numbers*, the trees on which have been summarily declared to be Government property, notwithstanding the undoubted right of your Memorialists thereto; and the Village Register Form No. 1, in which for years these trees have been described as being the property of the owners of the several survey numbers, has been altered so as to erase such description, and to enter the trees as Government property in pursuance of the illegal order, hereunto annexed, made by the Collector of Thána.

26. The pasture lands assigned to villages for the free grazing of their cattle have now been in many places constituted Protected forests, and your Memorialists know not where to graze their cattle.

27. Notwithstanding the Resolution of Government dated the 26th April 1880, to the effect that—

> "The penal clauses of the Indian Forest Act are applicable in cases in which the rights of Government or private persons to or over land notified as Reserved forest under Section 34, or the forest produce thereof, have been inquired into, settled and recorded in a manner which Government think sufficient, as at a demarcation previous to notification, or after the inquiry by a Forest Settlement Officer appointed under Chapter 2 of the Act;
>
> "2. Government do not consider that prosecutions under the abovementioned clauses will be with respect to lands in which a proper forest settlement or demarcation has not already been carried out, or which are still subject of inquiry by the Forest Settlement Officer, and regarding which his report has not yet been submitted to and approved by Government;
>
> "3. Government have already ruled that grazing and *ráb* are not rights, but merely permissive privileges, and do not propose now to reopen this question;
>
> "4. The Honourable the Governor in Council would impress upon the Conservator of Forests, N. D., and all the officers serving under him, the absolute necessity for the exercise of the greatest care and forbearance in the institution of prosecutions under the Forest Act. Criminal charges under the Act should only be preferred after warnings have been disregarded, and in cases where no reasonable doubt can exist that the offender has intentionally and knowingly transgressed the provisions of the Act, and has not nearly ignorantly acted in accordance with previous custom or in pursuance of a right which he in good faith believed that he possessed;"

numerous prosecutions are instituted against your Memorialists by the Forest Officers, although the respective rights of your Memorialists and the Government in respect of the lands declared to be Reserved and Protected forests have not yet been finally determined as contemplated by the Act. A table of the number of forest prosecutions for the years from 1875-76 to 1880-81 is annexed, and will enable your Excellency in Council to see how grievously we are harassed in this respect.

28. The jungle tribes are prohibited from cultivating the wastes on the hill sides, whole villages of them have been ejected from their huts, and their means of livelihood have been entirely taken away. It has been brought to the notice of your Excellency's Memorialists that in the Váda *táluka* a few such huts were burnt down by order of some forest officials and the occupants turned out; this was done in May last.

Your Memorialists, therefore, pray—

(1.) That the definition of "Forest produce" in Section 2 may be modified by striking out the words from "grass" to "horns," both inclusive and that so much of the Act as is inconsistent with the following prayers may be repealed, and that the Rules published by the Bombay Government under the said Act may be suspended until this Memorial has been finally dealt with.

(2.) No forest may be declared to be a Reserved Protected or forest within the distance of 50 chains from any village, nor in any place where there exists an area of less than 1,500 acres of forest land. No Reserved or Protected forest should consist of a tract of land of less extent than 1,500 acres; but such 1,500 acres need not necessarily be within the limits of any one village, but may extend over the limits of one or more villages. To illustrate what they mean, your Memorialists annex a map marked (80), and pray that all Reserved and Protected forests may be settled in the same manner as has been therein done. Under the present system there are Reserved and Protected forests in many villages, where

it is hopeless to expect that much forest will ever grow, and the expense to the Government and the inconvenience to the rayats entailed in keeping them up are entirely incommensurate with any benefit ever likely to accrue.

(3.) That, excepting teak and blackwood trees, the following rights and privileges may be restored to your Memorialists, *viz.* :—

(*a*) The right to take from the village forests sufficient twigs, branches, leaves, and grass for the requirements of each villager for agricultural purposes, such as for burning for manure; and that such villages as have no forests of their own may be at liberty to resort for the same purpose to such forests as they have hitherto been accustomed to resort to.

(*b*) The right to firewood, green or dry, for fuel for home consumption, villages without forests being allowed to resort to such forests as has been heretofore customary.

(*c*) The right to bring from Government forests for home consumption such forest produce, as leaves, bark, medicinal herbs and roots, and the fruit and berries of *karvandi, torni, jámbhul* and such like.

(4.) That no passes or previous permission to remove any of the abovementioned things should be required.

(5.) That passes and previous permission should only be required in the case of timber required for house-building and repairs, or for the building and repairs of temples and public buildings, such as *dharmashálás*, serais, *masjids*.

(6.) That in respect of those of your Memorialists who consist of the jungle tribes hereinbefore mentioned, the following arrangements may be made, *viz.* :—

(*a*) That they may be allowed to continue to dwell in the places in which they have heretofore dwelt, and that the harsh measures adopted of turning them out of and pulling down their huts may be put a stop to.

(*b*) That they may be allowed to continue their system of *dalhi* cultivation or cultivation of waste lands on the mountain slopes in such places as they have heretofore been used to cultivate, and to obtain the *rán* necessary for such cultivation from the neighbouring forests, as of old.

(*c*) That they may be allowed to gather, and sell head-loads of fallen wood found in the forests.

(*d*) That they may be allowed to gather and sell or consume such forest produce as honey, wax, fruits, roots, flowers, gum and such like.

(*e*) That they should be allowed to use the fallen wood found in the forests for the purpose of building their huts and for fuel.

(7.) That your Excellency in Council will be pleased to put a stop to the system of granting contracts to traders in respect of the leaves of *áptá, palas, tembhurni, kuda* and such other trees, and remove the prohibition on your Memorialists of taking such leaves that now exists.

(8.) That village sites and pastures should be free to the villagers; this will remove all inducement or temptation to go to the Reserved forests to supply their wants. All rights and privileges heretofore exercised and enjoyed over such lands should be permitted to be exercised and enjoyed in future without let or restriction; and the right to all trees of whatever kind growing therein should be conceded to the rayats; but no teak and blackwood should be allowed to be felled, except with the permission of the *mámlatdár*. The *mámlatdár* should be empowered to give permission to cut wood gratis, other than teak and blackwood, to the extent of Rs. 50, and the village officers to an extent of Rs. 20, for the purpose of building and repairing houses; but should not grant such permission to the same person more than once in 3 years, except under special circumstances.

(9.) That all obstructions to, and restrictions on, the cutting of *rán* may be removed and that the rayats may be allowed to cut the twigs and branches necessary for *rán* from trees of all kinds, including teak. Such periodical pruning improves, instead of depreciating, the trees.

(10.) That the right to graze their cattle and cut grass and *rán* from the village pastures may be restored to your Memorialists.

(11.) That the system of giving contracts to traders for the cutting and clearing of Reserved forests, and for the sale of leaves and other forest produce may be stopped, and the following procedure adopted in its place :—

(*a*) The teak timber and firewood trees proposed to be cut should be marked whenever the clearing of any forest is proposed, and the cutting should be strictly confined to these only.

(*b*) This felling of trees and removing the wood out of the forests should all be done between the months of October and May. Rules should be framed regulating this removal under proper superintendence.

(*c*) The routes for taking wood out of forests should be fixed and the removing them by any others should be strictly forbidden.

(*d*) On these routes at the openings of the forests toll *chavkis* should be stationed by the Government or by the *maktedárs*.

(*e*) Rates of fees should be fixed for every piece of teak or timber, and these fees should be levied at the stations.

(*f*) Rates should also be fixed as to firewood and every other produce.

(*g*) Rules should be framed by the Forest Department and published, after sanction by Government, as to how and with what rates fees should be imposed and levied on all wood taken for trade.

(*h*) Before persons are given licenses to clear any part of jungle, *kabuláyats* should be taken from them binding them to strictly follow these and other rules that might be framed.

This will secure to Government its due return for forest produce, reduce the present exorbitant expenses and prevent the destruction of forests. *Kolpát* should also be disposed of in like manner. Any person who may be in want of any forest timber or other wood should apply to the *mámlatdár*, who should make proper inquiries and take the necessary steps to protect the interests of Government by taking the necessary *kabuláyats*.

Those agriculturists who at present, after their season-work, sit idle with their carts, and often at home may be thus induced to enter into the requisite *kabuláyats*, and this will give due profit to all parties and may materially conduce to ameliorate the condition of the agricultural population. The present contractors being forced to buy the wood from these agriculturists, this step is likely to secure an equitable adjustment of the profits which at present, to the loss of the masses and also of Government, fill the purses of the already wealthy traders.

(12.) That the owners of trees on village sites, and within the fences and compounds of individual proprietors, may be at liberty to deal with them as they think fit, as also those persons who, or whose ancestors, have in the faith of the Proclamations of 1847 and 1850 hereinbefore mentioned, planted trees on lands incorporated at the time of the Survey Settlement in the cattle pastures or Government numbers, assessed and unassessed, and that an inquiry may be made to ascertain the names of this latter class of persons.

(13.) That the Village Form No. 1 may be ordered to be restored to its original state before the alterations made therein in pursuance of the illegal order hereinbefore mentioned.

(14.) That the holder of *málki* numbers, which with rice fields and *varkas* land have been entered in the names of the rayats in the Government registers, should be declared entitled to all trees, shrubs, and forest produce thereon.

(15.) That trees not specially reserved and growing in the waste lands, which have been transferred in the names of private individuals under the Survey Settlements, may be declared to be the property of such persons.

(16.) That the right of purchasers of land from Government may be declared in the trees growing thereon.

(17.) That the money charged on trees in *málki* numbers should be returned to those from whom it has been unjustly taken, and their ownership over trees shooting up afresh, after they have been once cut, should be declared.

(18.) It should be declared that there is no difference between the Survey Rules applicable to *tálukás* of Shaháp̃ur, Dahánu, Váda and those made applicable to the rest of the Collectorate. The rights and ownership of the rayats over trees of all sorts in their *málki* numbers, including teak and blackwood, should be declared absolute.

(19.) The rayats own *moha* trees in their *málki* numbers, and it is unjust that any thing should be charged in respect of these, since it was after taking the produce of these into consideration that the land assessment was fixed. The fruits and flowers of these trees are of extreme use to the poor rayats, and numbers of them are being every day sentenced and fined for taking these. Your Excellency's Memorialists pray that the oppression of *maktedárs* and Abkári officers should be put a stop to.

(20.) Trees in village sites and *málki* numbers have been unjustly sold by Government. The annual statements showing receipts of this money should be called for, and the money returned to the proper owners or their heirs.

(21.) Since the year 1863-64, without the authority of any law or any Government Resolution, the rayats of the Sálsette *táluka* have been forced to pay an anna for each fruit-bearing tree. This illegal and unjust practice should be stopped, and the money returned to the owners of these trees or their heirs and representatives.

(22.) During the last two years Government have in several places attached wood from trees in village sites and *málki* numbers. The attachment should be ordered to be removed, and the property returned to its owners.

(23.) The Thákurs and Kátkaris have been fined for building huts in forests. Statements of these unjust punishments should be called for and the fines returned.

(24.) Many *málki* numbers and cattle pastures have been incorporated with Reserved forests. Statements of these should be called for from the records and the numbers restored to those entitled thereto.

(25.) That all claims in respect of the rights and privileges of your Memorialists may be referred to a Commission of four independent persons, and may not be tried by the Forest Settlement Officer; and that the Commission may be directed to dispose of all such claims without delay.

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No. 1713 of 1885.

To

THE UNDER SECRETARY TO GOVERNMENT,
Revenue Department.

*Thána, 31st March 1885.*

SIR,

With reference to your memorandum* No. 2 of the 2nd January last, I have the honour to report on the forest memorial of the rayats of the Thána Collectorate. As I have now served for over 4 years in this district, during the period in which the policy complained of by the memorialists has been in force, I have taken the liberty of reporting on the petition generally, as well as on the points specially referred to in your memorandum.

*Returned herewith together with its accompaniments.

2. The memorialists begin by stating what they consider to be the rights and privileges, enjoyed from time immemorial by the people of this district, whom they divide into two classes; the dwellers in towns and villages and the wild tribes.

These rights and privileges they say are as follows:—

1*st*. For dwellers in towns and villages.

(*a*) The right of cutting and taking firewood for home use and for sale to a limited extent, from village, public, and Government waste, forest and pasture land.

(*b*) The right of taking wood for building and agricultural purposes from such land.

(*c*) The right of taking branches, twigs, leaves, and grass for *ráb* from such lands.

(*d*) The right of grazing their cattle in such land.

(*e*) The right to trees growing in their compounds, in their holdings and in other places* where they have been planted on the faith of Government proclamations.

*This can hardly be called an immemorial right.

2*nd*.—For the wild tribes.

(*a*) The right to *dalhi* cultivation on the hill slopes.

(*b*) The right to gather grass, wild fruits, and other minor products for home use and for sale.

(*c*) The right to take wood, *kárvi* and leaves for building their houses and for fuel

3. As to this statement I do not think I need say more than that I believe it described fairly enough the privileges enjoyed by the inhabitants of this district during the first years of our rule, with the exception of the latter part of (1-e).

4. The memorialists then proceed to show how their rights have been acknowledged by Government, by the legislature and the courts, and I will divide the argument into three parts; that dealing with the pre-survey arrangements; that dealing with the Survey; and that dealing with the period subsequent to the Survey. As to the first period they state that the rights mentioned above were admitted by the previous Governments; that many of the memorialists are descended from persons who enjoyed these rights as land-holders under previous Governments; that the British Government on gaining possession of the country, confirmed the rights of the inhabitants; they must, therefore, have confirmed their forest rights. Further they say that under English law, occupants of land are entitled to such rights. For Sálsette, Bombay Regulation I of 1808 recognised the proprietary rights of the rayats in their lands; it follows therefore that the rayats had proprietary rights over the trees growing in those lands. In 1824 Mr. Dunlop, Collector of the Southern Konkan, made over to the people all rights over teak and other trees in all lands except certain specified reserves. Between 1847-1850 proclamations were issued authorizing villagers to plant trees on waste land near villages, and promising them full rights over such trees. On the strength of these proclamations many trees were planted. Further the rights of *inámdárs, mirásdárs* and *sutidárs* to trees standing on their lands were admitted by Government in 1847.

5. I have said above that the description of the rights or privileges allowed in the early years of our rule is fairly accurate. It does not, however, follow that Government when abstaining from any interference at first, did so because they thought they had no legal power to interfere. The memorialists produce absolutely no evidence to support their position on this point. The fact was that the country in the early days was overrun with jungle; the population was scanty; timber did not fetch a high price, and the small staff of European officers had their time fully taken up with other pressing work. Still it appears to me that from very early days Government considered that they had rights over forests and this is proved by the memorialists' own exhibits. What would have been the use of Mr. Dunlop's well known proclamation of 1824 (Exhibit No. 4) if Government had not the rights over trees which they thus publicly parted with? I would here note with reference to this proclamation that the memorialists are in error in stating that a great

portion of the South Konkan, to which alone this proclamation referred, is now included in the Thána Collectorate. Their own Exhibit No. 1 shows that the South Konkan then included Kolába, but Kolába is not now part of the Thána District.

6. It was not until a difficulty was experienced in getting the timber required for the Government Dockyard, that steps were taken to regulate the use of the forests by the inhabitants of the district, but the letter of the Collector of 31st October 1831 (Exhibit No. 5) shows that at that time teak in Sálsette was considered to be Government property. Again Exhibit No. 6, a circular to the *mámlatdárs*, dated 10th October 1839, shows that there was no hesitation about interfering with the cutting of trees by the people; and Exhibit No. 9, a circular from Mr. Law, the Collector, dated 12th August 1847, which refers to the planting of trees by the people, is important as showing the beginnings of a system of conservancy, and the early attempts at checking *varkas* cultivation and at controlling the custom of cutting *táhál* for *ráb*.

7. To understand properly the tenure of the land before the Survey and the changes introduced by the Survey, it is necessary to keep in mind a fact, which has in late years been brought prominently forward by Mr. Nairne, and which formed the basis of the defence in the suit against Government known as the Pendse case. It is this that of the two chief classes of land in the Konkan, *viz.*, *kharif* or rice land and *varkas* (including *shindád*) land fit for inferior grains, and land for cutting branches for *ráb*, it was only the rice land which before the Survey formed part of a rayat's holding. The land which is now occupied *varkas* land, was then nowhere shown separately in the accounts as part of the *khátás* of cultivators; if a man cultivated it he had to pay separately for so doing. The High Court in their decision in the Pendse case held it to be proved "that *varkas* lands were treated not as private lands, but as Government waste; that the right of the cultivators to take *ráb* from those lands for manuring their rice fields was recognized; but that they were prohibited from felling upon those lands, trees of certain specified descriptions, although as a favour and not as of right, they were permitted to cut common wood for domestic use, but not for trading purposes. It follows that at the date of the Survey, no such right as the plaintiff claims in respect to the timber growing on the *varkas* lands had been acquired or recognized." It is necessary to lay stress on this point now, because the memorialists throughout their petition talk of *suti* land, of proprietary land, of *mâlki* land, as if there was no difference between the tenure of rice land and of *varkas* land and as if *varkas* land did before the Survey form part of a man's *suti* or holding. They further, in a way which is scarcely honest, bring forward the decision of the District Court in what is known as "Tipnis' case", while they ignore totally the subsequent "Pendse case" which was decided on appeal by the High Court and which now forms the latest authority on the subject of the rights to trees in occupied land.

8. I think there can be no doubt that any proprietary rights over trees which were admitted by Government before the Survey referred solely to trees in land which formed part of a mans' *suti* or holding, *i.e.*, his rice or his garden land. The exhibits put in by the memorialists themselves, if they prove anything, prove that Government never hesitated to enforce such restrictions, as to privileges in *varkas* land, as it deemed necessary for the conservancy of the forest though they always avoided interfering as far as possible with old customs (*see* Exhibits 20 and 21).

9. The following documents belonging to this period are relied on by the memorialists—Exhibits 8 (*a*), 9 and 129. The first of these is a proclamation on the scarcity of wood which was published in 1847. It urges people to plant trees in waste corners of their own lands and of such waste land as may lie in the vicinity of a village and it promises that those who plant trees on their own lands (which as I have pointed out above must mean rice or garden lands) shall have a right to the trees. This certainly gives no right to trees planted in grazing grounds and forests. The second is a circular from the Collector, already referred to by me, dated 12th August 1847; it lays down various rules as to conservancy, and the latter part of the 8th paragraph is as follows: "You should also make known either by proclamations or by written orders to the people of all the villages that if *all* the people of a village who use the grazing grounds or such other grounds adjoining that village in common, were to plant trees on such grounds, *all the villagers* will be the sole owners thereof, and that Government will have no claim whatever thereto." This promise will not support a private claim to trees, but only a claim made by the villagers in common. The third document (No. 129) is a circular by the Collector of the 20th February 1850. It provided for the giving of pieces of land to people for planting trees either waste patches in the village lands or in the village site, but pieces of the grazing ground were not to be given. In all cases agreements were to be taken, and if the agreements were not carried out the land was to be resumed. The memorialists adduce no evidence to show that claims under this order properly proved have been disregarded. There can be no doubt that they would be considered valid.

10. The memorialists also rely on an order of Government (Exhibit No. 125) of 1847 as proving the rights of *sutidárs* to trees growing on their lands. Unfortunately *sutidárs* are not alluded to, and there are no *mirásdárs* in the Konkan. There is nothing to show that the order referred in any way to the Konkan, and if it did, it could, as already pointed out, only refer to rice or garden land.

11. I now come to the part of the memorial dealing with the effects of the Survey. The memorialists give in their 15th paragraph a summary of their view of the results of the settlement, and for the sake of comparison I give in parallel columns their view and that of Mr. Ebden, formerly Forest Settlement Officer:—

| *Táluka.* | Memorialists' view. | Mr. Ebden's view. |
|---|---|---|
| | | *Jungle trees.* |
| Karjat, Panvel ... ... | Government have reserved to themselves no rights over trees and jungles. | Certain trees, probably 16 kinds, were reserved by Government unless the occupant can show that he bought them under Ellis' rules or can prove a special concession. In the Uran *peta* the rules of 1869 apply. |
| Kalyán ... ... ... | Government have reserved no rights except over teak and blackwood. | Government reserved no rights except over teak, blackwood and sandalwood. |
| Murbád ... ... ... | Government have reserved no rights except over teak and blackwood. | No orders traceable; probably as for Kalyán. |
| Bhivandi... ... ... | As for Karjat ... ... | As for Kalyán. |
| Sálsette ... ... ... | Government have reserved rights only over trees at Kashi-Mire, Ghodbandar, Vehár, Yeur and Parsik. | As for Murbád. |
| Bassein ... ... ... | Ownership of owners of survey numbers recognized. | As for Kalyán. |
| Máhím ... ... ... | As for Kalyán ... ... | No orders traceable. *Ellis'* rules introduced at Survey by Survey officers. |
| Shaháp ur, Váda ... ... | Rayats have liberty of rights of use over all trees except teak, blackwood and *tivas* for agricultural and building purposes. | All trees reserved. Privilege of use for certain purposes conceded, but not of cutting for sale or profit. |
| Dahánu ... ... ... | Do. Government have not kept any rights to themselves over trees in *peta* Umbargáv of this *táluka*. | In Dahánu and Umbargáv trees in *varkas* land only were reserved, privilege of use for certain purposes was conceded, not that of cutting for sale or profit. Teak, blackwood and sandalwood belong to Government except where purchased or when special concession has been made. Fruit trees belong to the occupant unless the produce or a share in it is reserved by Government, in which cases the occupant had option to purchase it at a valuation. |

The memorialists also argue that the Joint Rules were made applicable by the Survey to Thána, and that by rules 2 and 10, the rights of occupants to trees growing in their holdings were confirmed in the fullest way. They further point out that by section 3 of Bombay Act I of 1865, existing settlements were confirmed and by section 40, it was declared that in all future settlements the right to all trees not specially reserved would be conceded to occupants.

12. I have already pointed out the distinction that existed between the tenure of rice land and that of *varkas* land before the Survey. In the first *táluka* settled in this district, which is now called Karjat, the Survey Department did not attempt to mark out the *varkas* land into numbers and enter it in the names of occupants of rice land. Holders of rice land had been in the habit of using certain *varkas* land for cultivating *nágli*, &c., and certain *shindád* land for cutting *táhál*, and they were to be allowed to use this land according to custom for these purposes, a slight extra assessment being imposed on their rice land in lieu of the old assessment which was levied on *varkas* land whenever cultivated. In other *tálukás* the Survey Department marked out the *varkas* land into numbers, assessed it and entered it in the names of the persons who claimed the right to use it: all land which the occupants of rice land pointed out as being theirs by custom either for *shindád* or for *varkas* cultivation was thus divided out. This at least was the theory, as is shown by (Exhibit No. 27 (*b*) an

extract from the Thána Gazetteer describing the proceedings of a Forest Committee which met in 1863. I am afraid however that the actual facts hardly agree with this theory. It is a very common complaint everywhere among the cultivators that all their *shindád* land was not given to them, at the Survey, and I think there is some truth in the complaint. In some cases the rayats did not take in what was going on; in some cases they would not take the land, because it was assessed and they hoped to get their *táhál* free from Government land. Further I cannot find that the case of the villages without forest land was ever properly considered. They have continued their old custom of taking *táhál* from the nearest forest till quite recently. The *varkas* land in the Karjat *táluka* was measured into numbers and entered in the names of the persons using it in 1874-75. No assessment was however put on it.

13. The statement in my 11th paragraph shows how far the view of the result of the Survey Settlement taken by the memorialists differs from that taken by Mr. Ebden which was drawn up after a careful study of the records. The memorialists however in places use vague language which would seem to imply that the rights mentioned by them extended over forest lands as well as over occupied lands. They apparently ignore the fact that the Survey officers set apart either during the Survey or soon after it in almost every village grazing grounds, which have always been Government property; and that in every *táluka* they set apart some lands as forest, in which no privileges at all were granted. To say as they do that in several *tálukás* Government reserved no rights over trees or forests is to make a serious misstatement.

14. The memorialists assert that the Joint Rules, including rule 10, are in force in the Konkan. The question is one which was gone into fully in the Pendse case, and the decision of the High Court on the point may be quoted as disposing of the assertion of the memorialists. "There is a good deal of confusion about the matter, but the result of the whole evidence is that at the time of the Survey in Thána in 1854-55 either rule 10 of the Joint Rules was not legally introduced at all, or that it was introduced subject to the modification made by Captain Francis in paragraph 3 of Exhibit 272." The reference is to Captain Francis' instructions to the *mahálkari* of Khálápur on the Joint Rules. "Clause 10 provides that the proprietor of a field has the right to cut down trees growing in his field. Such right must be understood to exist in this *peta*, but this clause does not authorize the felling of trees which are under the conservation of Dr. Gibson, the Conservator of Forests. They should be preserved as hitherto." The High Court also point out that it was generally believed both by Revenue and Survey officers that the Joint Rules had not been introduced into the Konkan. This decision of the High Court referred to Karjat, but it is equally applicable to Panvel. For Dahánu, Váda and Sháhápur there are also distinct reservations; and it is only in the remaining 6 *tálukás* that the Joint Rules can be considered applicable, and there under section 40 of the Land Revenue Code, teak, blackwood and sandalwood are Government property, there having been no special concession as regards them.

15. The memorialists point out that after the Survey in 1868, Government resolved not to interfere with any trees growing on *dhára* lands, and they quote an order passed in the case of one Almeida, a cultivator in Sálsette, in which they say, Government distinctly admitted the right of the owner of land to teak and other trees growing on it. They also say that in several suits decisions in favour of the rights of occupants have been obtained, and they refer especially to the suit known as the Tipnis case.

16. With respect to this part of the argument little need be said. There is no *dhára* land in Thána, there is nothing in the papers in the Almeida case to show that it had anything to do with teak and no restriction has of late years been placed on the cutting of other trees by rayats in Sálsette. As to the suits, as the memorialists do not give copies of the decisions it is impossible to tell how they bear on the matter. I have already said that the leading authority is the decision of the High Court in the Pendse case, delivered in 1879.

17. Before dealing with the special grievances alluded to by the memorialists, I will first give a brief account of the forest administration as regards the supply of the wants of the agricultural population since the Survey. In 1863 a committee met to discuss the arrangements necessary to meet these requirements and in 1864, Government passed a Resolution on their report. The committee considered that as the land claimed by the cultivators as their *shindád* land had been measured out and made over to them, no further measures were necessary in order to ensure a supply of *rább*. Unfortunately their hope was not well founded; the cutting of *táhál* in grazing ground has gone on steadily ever since and the settlement of the question has now to be made twenty years later. Government further approved of the proposal that the forests should be demarcated, and two classes of reserves made, one which should be strictly conserved, and one from which the villagers should be allowed to cut firewood and timber for their own use. This demarcation was carried out in a great part of the district. No special orders were passed about villages without forests; the necessity of providing for them was admitted by Government, and a further enquiry into their old privileges was directed. It is not very clear what steps were taken on this Government Resolution; the inhabitants of non-forest villages did no doubt use the 2nd class reserves of forest villages for a time, but subsequently the privilege was withdrawn

by Government Resolution No. 1281 of the 13th March 1874, and a system of allowing wood to be taken on passes was established in the sea-coast villages.

18. A new departure has been made since the passing of the Forest Act, and I am bound to say that I am not astonished at much dissatisfaction being felt by the inhabitants of the district. I can say this the more readily as I have been in the district for a great part of the time and was a member of the committee of 1882 which drew up a report. The rumours about which were one of the causes of this memorial being made. There has been I think a tendency to make use of the Act before the Forest Settlement has been completed; there have been many changes in the arrangements for the supply of wood to the people and in the prices charged and there has been a curtailment of old privileges, which must be very distasteful to an intensely conservative class; further the new arrangements, however necessary they may be, have had the effect of increasing the cost of living for all classes and the cost of cultivation for the agricultural class. The prices charged are not in themselves high, and an officer coming from the Deccan would possibly consider them very low; but to understand the view taken by the people we have to consider their habits and the fact that till a comparatively recent period they got their wood free. As far as I can learn, it is the restrictions on cutting *táhál* which are most distasteful.

19. As regards firewood, the privilege once allowed to non-forest villages of taking wood from the forests of neighbouring villages was stopped partially at any rate, some years before the passing of the Forest Act. Until 1882 a fee of 8 annas (in some places 9 annas) a cart-load was charged. Then in accordance with the recommendations of a committee of which I was a member, depôts for firewood as well as agricultural depôts were opened. The right to take dry wood from the forests, and to sell it at these depôts was sold to contractors and the depôts were a complete failure. Next year the pass system was again introduced and is now in force, the price of firewood per cart-load having been raised from 8 annas and 9 annas to Re. 1 and Rs 1-2-0. Inhabitants of forest villages are allowed to collect fallen dry wood free in their forests for their own use; but they are not now allowed to cut green wood for fuel.

20. In 1880 the power of making free grants of timber was taken from the Collector and his subordinates; and the practice of allowing cultivators to cut wood of the non-reserved kinds in the village grazing ground for agricultural implements and buildings was also stopped. Up till 1881 wood for ploughs was allowed to be cut free on passes, but with the introduction of the depôt system, this privilege was stopped, and persons who have not wood on their holdings have now to buy wood for ploughs and other implements at the depôts. Teak wood for houses is also kept at the depôts and is sold to cultivators, not more than Rs. 10 worth being sold to one person at a time. People are not now allowed to cut timber for building purpose in forests on payment of fees. There are 61 depôts in the district, and the prices fixed are given in a statement appended to this report (*vide infra* page 72).

21. Various efforts have been made to control the cutting of branches for *ráb* in the grazing grounds which are now Protected forests. In 1876 an order was issued (Exhibit No. 71) in which the people were warned that the privileges accorded both to the non-forest villages and to forest villages would be soon curtailed, and they were advised to protect and improve the jungle on their own lands. In 1879 and in subsequent years up to 1882 notice was given that the custom would be allowed one year more (Exhibit Nos. 81, 88 and 92). After the conference in 1882, the Collector published rules (Exhibit No. 104) regulating the cutting of branches for *ráb* for 1883. Rule 4 was unworkable, and was speedily modified (Exhibit No. 107) and as a matter of fact, the cutting went on as usual. Next year in accordance with the recommendations of a committee, the cutting of 28 kinds of trees was forbidden in Protected forests, and arrangements were made for the sale of *ráb* at depôts and on passes to non-forest villages. A good many people were prosecuted for cutting these reserved trees, but the convictions were reversed by the High Court and the cutting of *táhál* was but little checked. This year orders have again been given to prevent the cutting of *táhál* from these 28 kinds of trees, and when the order is disobeyed to levy the value of the *táhál* under section 43 of the Land Revenue Code. I may add that the people are strongly opposed to these arrangements.

22. The privileges of grazing have not been interfered with in forest villages, but the inhabitants of non-forest villages will in future have to pay fees, if they wish their cattle to graze in the forests

23. As to minor forest products, the right to collect *áptá*, *tembhurni* and *palas* leaves, and *hirdás* has for some years past been farmed out; and villagers are not allowed to take *kárvi** or thorns free for any purpose.

24. As regards the settlement of the forests under the Forest Act, the following steps have been taken. On the 1st March 1879 lists of forest lands were published under section 34; the lands set aside at the Survey as forests or subsequently demarcated being entered as a rule as Reserved forests; the grazing grounds and waste numbers as Protected forests. Since then settlement reports on the Panvel, Sálsette, Karjat, Bhivandi and Kalyán *tálukás* have been submitted, and two more *tálukás* will probably be completed this season. The

*The Conservator has just agreed to let *kárvi* be taken free by forest villagers and wild tribes.—*Mr. W. W. Loch.*

Forest Settlement officers have in nearly all cases held that the only rights existing are rights of way, or to the use of springs. As to demarcation the system advocated by the committee of 1882 has been followed; large blocks of Reserved forests have been formed especially on the hills and at the water-sheds of the rivers, and to bring this about much land that was formerly grazing ground or Protected forest has been included in Reserved forest. Outlying pieces of forest or lands containing valuable trees interspersed with cultivated fields have been made Protected forest, and a good deal of land has been disforested. Government have as a rule granted the following privileges in forest villages; the privilege of grazing cattle in all unclosed forests; the privilege of taking free fallen dead wood for fuel; the privilege of taking grass, leaves, and the branches of certain trees and shrubs free for *ráb;* the privilege of taking wild fruits and leaves except those specially reserved. The arrangements for non-forest villages have been given in my 19th and 20th paragraphs. For the wild tribes special arrangements have been made; they are allowed, except in Sálsette, to take free for use or for sale dry fallen wood and grass from all forests not closed, and where necessary land for cultivation will be given out on special terms. Government have also directed that their services should be utilized as far as possible by the Forest Department on cuttings, for collecting *hirdás,* &c.

25. The memorialists in their 23rd and following paragraphs allude to some special grievances which I will now examine. First in paragraph 23 they say that owing to the very exhaustive nature of the definition of the term forest produce and owing to the fact that the use of articles included in that term is forbidden to rayats under certain sections of the Act, all classes have been seriously inconvenienced, while the wild tribes have been deprived of their subsistence and driven from their homes.

26. The memorialists probably here allude in part at any rate to the rules sanctioned by Government in 1879 by which it was laid down that no forest produce should be moved from one village to another without a pass. The system of requiring passes was not introduced into this collectorate till late in 1882 (Exhibit No. 103, Collector's circular, 31st October 1882). Under the definition given in the Act passes were at first required for grass and all sorts of forest produce, and some inconvenience was caused by carts of grass being stopped, because they had no passes. The machinery for giving passes was also at first defective, and persons requiring them could not get them. It was before this state of things was remedied that the Thána people took steps to draw up the petition under report. After a short time passes were sent to *talátis* for distribution, and grass was allowed to be taken without a pass. Subsequently in accordance with the Legal Remembrancer's opinion, it was decided in Government Resolution No. 5437 of 7th July 1884, that passes were not necessary for any forest produce coming from occupied numbers, and the pass system is now practically in abeyance as regards wood the property of private persons. I know of no other hardships suffered by the memorialists in consequence of the definition of forest produce. The remarks about the wild tribes I will return to later on.

27. In their next paragraph the memorialists make three complaints; first, that Government in their notification of the 6th March 1879 declared private numbers though held in *suti* and proprietary right to be Reserved and Protected forest; second, that the Forest Settlement Officer has rejected claims, I presume, to such numbers on the ground that they are not supported by documentary evidence; and third, that great delay has taken place in the disposal of these claims. As to the first charge, I presume it relates to the Government notification of the 1st March 1879 referred to in my 24th paragraph. There were mistakes in the long and rather hurriedly prepared list, and occupied numbers were entered by mistake in a few cases; but these mistakes were rectified when discovered and the lands were formally disforested, and I am certain that no occupied number was in consequence of any such mistakes treated as forest. At the time of the Survey too mistakes were made, and *varkas* land in the occupation of cultivators, and in which they had planted trees was occasionally not entered in their names but was made part of the village grazing ground. Similarly hamlets and parts of villages were shown as grazing grounds. In some cases these mistakes have been corrected, in some cases the land has continued grazing land and is now Protected forest, but it must be remembered that this was not land which had ever prior to the Survey been entered in a cultivator's name. In Karjat since the *varkas* survey of 1874-75 there have been numerous complaints that *varkas* land of which cultivators had the use has been included in forest. Some of these complaints may be well founded but they have nothing to do with the working of the Forest Act, and the land claimed being *varkas* was not, before the Survey, part of any person's *suti.* There is another class of lands to which possibly the petitioners may refer. After the Survey it was found in some villages, chiefly I believe in Kalyán and Panvel, that the grazing ground allotted was insufficient and additional land was given, a nominal assessment being imposed and the land being entered on behalf of the village in the name of some leading man. An instance of this kind occurs in Dahisar in the Kalyán *táluka.* A large survey number (299) with an area of 288 acres which had been reserved as a *kuran* was entered for grazing purposes in the *pátil's* name. It contains about 2,500 trees which were not made over to the *pátil.* The *pátil* has lately put forward a claim to the trees and his right to them has not been recognized. The number was one of those entered by mistake as Reserved forest in the list of March 1879. It has since been disforested.

28. The second point as put by the memorialists apparently refers to claims to land, but the decisions of the Forest Settlement Officer that they produced (Nos. 79, 100, 105 and 106) refer to claims to trees on grazing ground and other Government land or to rights of grazing. The former claims have been rejected in accordance with the Advocate General's opinion given in Government Resolution No. 6550 of the 3rd November 1881. If they had been supported by evidence of a grant from Government they would have been admitted. I have already explained what I believe to be the bearing of the proclamations of 1847 and 1850. The memorialists produce no evidence as to the rejection of claims to land and such claims could hardly be made to a Forest Settlement Officer.

29. As to the third point, I have noticed in my 24th paragraph the progress made in the forest settlement work. I can only suppose that the memorial was drafted a year or eighteen months ago, for otherwise it is difficult to understand the assertion made in it.

30. In their 25th paragraph the memorialists complain 1st that in consequence of the action of Government in publishing the notification and in consequence of subsequent orders, the felling of trees in proprietary land has been stopped; and 2nd that entries regarding rights to trees have been illegally changed in Village Form No. 1. As to the first point, there certainly is no connection between the notification and any real or supposed hindrance to the cutting of trees. Any one who has been in the district during the last four years knows how steadily cuttings on occupied *varkas* lands have gone on. What I presume the memorialists refer to is the interference with the cutting of trees claimed by people in grazing grounds and village sites; the refusal to allow the holders of *varkas* land coming under the Dahánu and Kolvan settlements to cut wood in their *varkas* land; and the refusal to allow the holders of similar land under the Karjat and Panvel settlements to cut reserved trees for agricultural purposes. As to trees in grazing grounds and village sites the rights of Government over such trees have been asserted on the strength of the Advocate General's opinion above alluded to. An order was issued by the Collector (Exhibit No. 93—of 14th November 1881) directing that in future the right to the produce of fruit trees standing in Government assessed waste numbers or in unassessed land should be sold, but the order was not generally carried out, and people have been allowed to take the fruit as before; only they have not been allowed to cut down the trees. As regards trees in village sites, there have been a good many complaints and a good deal of correspondence. In some cases people have been prevented from cutting trees growing in their compounds, but the custom has been to permit the cutting of such trees and only to forbid the cutting of trees in open village sites, where the claimant cannot prove his title. It has however been found impossible to lay down a general rule, owing to the varying circumstances of the district.

31. The holders of *varkas* land in villages under the Dahánu and Kolvan settlements were between 1881 and 1883 prevented from cutting wood for buildings and for ploughs in their own *varkas* land, and for a time it was considered that in Dahánu the reservation of trees extended to those in rice and garden lands. In consequence of this view prosecutions were instituted against persons who cut and sold trees growing in other than *varkas* land. In one case one Jagu Dharma was fined by the 3rd Class Magistrate of Dahánu Rs. 15 under rule 2 of the rules under section 75 of the Forest Act for cutting and selling a tamarind tree growing in his own garden land at Chinchni. A year later the proceedings were sent by the District Magistrate to the High Court, the conviction was reversed and the value of the wood repaid. There were a few other similar cases I believe. The refusal to allow the cutting of trees in *varkas* land was caused by the discovery of serious frauds regarding the permits given by *mámlatdárs*, especially in the Váda *táluka*; still there can be no doubt that the people were legally entitled to permission to cut wood for domestic and agricultural purposes. Rules have now been drawn up regulating the exercise of the privilege, and I do not think that any cause for complaint exists.

32. As to Karjat and Panvel, it must be remembered that certain trees besides teak and blackwood were reserved in these *tálukás* at the Survey. The refusal to permit the cutting of *ain* and *khair* which are reserved trees was therefore strictly legal. The people would have been allowed to cut any non-reserved trees for agricultural purposes.

33. As regards the alterations in Village Form No. 1, the Exhibit No. 226 I think explains itself. It was brought to the notice of Mr. Mulock when Collector that the entries as to the ownership of trees in that form had been made by the *talátis* without any authority and that they were made in total disregard of the Survey reservations. He very properly directed that the *mámlatdárs* should have the entries corrected, bearing in mind the Survey orders and the rights of Government to trees, both in occupied and grazing numbers.

34. The next complaint of the memorialists in their 26th paragraph is that as the grazing grounds have been made Protected forest, they do not know where their cattle are to graze. The complaint is entirely without foundation. No hindrance has been put in the way of using the old grazing grounds except by people from other villages. Under the new system portions of Reserved and Protected forests will be closed temporarily, but the unclosed parts of both Reserved and Protected forests will be thrown open for grazing purposes to the forest villages, and cattle from non-forest villages will be admitted on payment of fees.

35. In their 27th paragraph the Memorialists complain of the number of prosecutions for forest offences which have taken place in late years, and they give a table (Exhibit No. 113) showing the number for the years 1875-76-1880-81, I give in the margin similar information for later years. It is perfectly true that such prosecutions have been unfortunately very common in this district but the orders contained in Government Resolution No. 658 of the 25th January 1883 requiring the consent of Divisional Forest Officer to prosecutions has had a good effect, as it has deprived the subordinates of the department of the power of bringing frivolous or malicious charges and there has been a decided decrease in the number of prosecutions. I have in my 31st paragraph alluded to some prosecutions in Dahánu which were wrong: with these the Forest Department had nothing to do and in my 21st paragraph I have mentioned the convictions for cutting *táhál* of reserved trees which were reversed by the High Court.

| Year. | Total cases. | Of which failed. |
|---|---|---|
| 1881-82 ... | 314 | 100 |
| 1882-83— | | |
| North Thána | ...193 | 56 |
| South Thána | ...142 | 45 (This included Alíbág and Pen). |
| 1883-84— | | |
| North Thána | ...38 | 18 |
| South Thána | ...175 | 34 (excluding Panvel). |

36. The last complaint refers to the treatment of the wild tribes. It is asserted that they have been prohibited from cultivating the wastes on the hill sides; that whole villages of them have been ejected from their huts, and that their means of livelihood have been entirely taken away from them. Mention is also made of a case in the Váda *táluka*, where some huts were burnt down by Forest officials, and the occupants ejected. We have here a sweeping charge brought against the District Officers, and as the last portion is the only part of it which is really well founded, I will deal with it first. Several years ago, demarcation was carried on in the Váda *táluka*, by Mr. Gibson, then Forest Officer, aided by an Assistant Collector. In a few villages the few inhabitants were bought out, and the whole of the villages became Reserved forest. Subsequently Mr. Gibson allowed some Thákurs from a neighbouring village, not the old inhabitants, to cultivate some land in one of these villages, Nandanigigotha, on the understanding that they should help to protect the forest. The permission was merely given for a short period. In 1882 the fact that Thákurs were squatting in the forest was discovered by Mr. Mulock. He and Mr. Shuttleworth disapproved of the arrangement, and steps were taken to eject the Thákurs. Next year however two of them returned and built huts and orders were again given to eject them. The Sub-Assistant Conservator went in the end of April 1883, and in order to force the men to go, he very foolishly burnt their huts, two in number. He was afterwards made to compensate the men for the damage done, but it must be remembered that the Thákurs were men who had trespassed in defiance of repeated orders, and that the village was not their old home.

37. As regards the rest of the charge, I can find nothing to support it in the exhibits except No. 99. This refers to an order made at *jamábandi* by the Assistant Collector, fining a man Rs. 1-4-0 for building a house without leave in forest land. The order was passed under the Land Revenue Code. There is nothing to show that the person fined was a member of the wild tribes; the village is not a forest one, but is in the civilized *táluka* of Sálsette, a few miles from Bombay. As a matter of fact under Act I of 1865 members of the wild tribes were fined for cultivating in forest and *gurcharan* land without leave, and there has been no change at all in the procedure. Whole villages of them have not been turned out of their homes. I find, however, in a letter from Mr. Ebden, Forest Settlement Officer (No. 44 of the March 1882) that in a partial demarcation in Panvel some Thákurs and Kátkaris had been turned out of the land which they used to cultivate in Nánoshi-Ghátteghar, and the land which it had been meant to give them had never been allotted to them. I know of no other cases of the sort. It cannot, however, be denied that the Thákurs especially have suffered by the check put on their old system of *dalhi* cultivation. Such a check was necessary in the interests of the forest conservancy, but it has seriously affected their means of livelihood. Some of them cultivate land as tenants, but the majority of them were dependent on the *dalhi* crops and living as many of them do in remote villages, it is no easy matter for them to get employment. For a short time also fees were levied on the head-loads of wood, brought by them for sale to bazárs and other places, but this system has been stopped since the beginning of 1884 everywhere except in Sálsette. There the Forest Settlement Officer rightly thought there were no special reasons for the remission of the fees. The question as to the arrangement for these wild tribes is a difficult one; their means of livelihood are very precarious, and they naturally dislike the restrictions imposed on them, but if the orders of Government as to their employment and as to the allotment of land are carried out fully and liberally, I do not think they will have much cause to complain.

38. The memorialists end by making proposals under 25 heads as to the amendment of the Forest Act; the proper system of demarcation; the rights to be allowed to the inhabitants of villages, and to the wild tribes; the system to be followed in managing the forests; the correction of Village Form No. I; the remedying of the unjust procedure followed as to trees in village sites and occupied lands; the abolition of the illegal fruit tree cess in Sálsette; the remission of illegal fines imposed on members of the wild tribes.

39. It seems unnecessary that I should refer to any of the suggestions except the ones specially alluded to in your memorandum, *viz.*, 18, 21, 22 and 23. Of these 18, 21 and 23 refer apparently to the same subject, the alleged illegal taking by Government officers of trees growing in village sites, and on occupied lands. I have in my 9th and 30th paragraphs explained the circumstances relating to trees here alluded to and have admitted that in some cases mistakes may have occurred. It would, however, be almost impossible to trace them now, as the vernacular proceedings would have been destroyed after two years as "B papers," and there would only be entries in the registers as a guide. Exhibit No. 245 refers to four cases in which the cutting of trees in village sites was interfered with in the Panvel *táluka*, and the Collector of Kolába might be able to give some information about them. I am certain that in no case have trees in village sites or in occupied numbers (with the exception of teak) been cut down by Government officers for sale. They may have been cut down when dangerous; and they may have been attached and sold when cut down by persons who were not entitled to cut them down. As regards the claim to the after-growth from the stumps of reserved trees cut down by the Forest Department, Government in their Resolution No. 3462 of the 5th May 1883, have decided that in the Konkan such after-growths shall not be the property of the occupant of the land.

40. The facts regarding the tax on fruit trees in Sálsette are probably well known to Government. Mr. Bell, when Assistant Collector in charge of the *táluka*, with a view to preserve the rights of Government over fruit trees growing in open village sites, in *gurcharan* and in other waste land, suggested that people who wished to have the fruit of such trees should give an agreement to pay one anna a year for them. The suggestion was carried out (*see* Exhibit 148), though it does not appear that the sanction of Government was ever obtained. The people who pay the cess are merely allowed the fruit of the trees; they are not allowed to cut them down, though in some cases permission has been given on payment of ten times the cess. I find from a report written by me as First Assistant Collector early in 1882, that the cess was then levied on 12,107 trees in Sálsette. I can see no hardship in the arrangement; the trees all stand in Government land; and a man for one anna gets the fruit of a mango tree worth Rs. 2 or 3 a year.

41. I am directed further to state what value I think should be attached to the extract from the *Huzur* and *Táluka* records, translations of which are given in the appendix to the memorial. I presume Government wish me to confine my remarks to those extracts which relate to the period subsequent to the passing of the Forest Act, as it is to this period that the petition principally relates. These are found in Exhibits Nos. 73 to 116 and Nos. 206 to 244. I will now classify them according to the subjects to which they allude.

42. (1) Exhibits referring to the correction of Registers, No. 1. Nos. 73, 75, 76, 143 are extracts of registers. Nos. 222, 226 and 230 are orders for correction of Registers. I have referred to this point in my 32nd paragraph, and now need only say that No. 222 has been very badly translated; a copy of the circular is therefore appended. It only refers to cases where teak belonging to Government is cleared from rice land at the request of the occupant; in such cases the cultivator is to give an agreement acknowledging that he has no right to the after-growth, and a note to that effect is to be entered in the Register. No. 230 as it stands is unintelligible owing to the introduction of the word *suti*. No *suti* lands could be set apart as grazing grounds. I have been unable to trace the original order.

(2). *Exhibits as to statistics.*—Nos. 78 and 111 are from the Thána Gazetteer, and No. 113 was taken from the Forest Administration Report.

(3). Notices and decisions of the Forest Settlement Officers.—Nos. 79, 83, 84, 100, 105, 106 and 116. These need no remarks. No. 101 may be classed with these. It is an answer from the Collector to a petition from the villagers of Khári asking for leave to take firewood from the forest of the adjoining village of Parsik. Parsik is uninhabited, and the land is cultivated by the Khári people. The answer appears to be in accordance with the wording of the Government Resolutions as to privileges. The Khári people are not inhabitants of Parsik, though they are cultivators of Parsik; they are therefore not considered to be entitled to the privilege of gathering fallen dry wood, which is conceded to the inhabitants of a forest village.

(4). Orders about *ráb*.—Nos. 81, 88, 92, 104, 107.—I have commented on these in my paragraph 21.

(5). Orders about wood for ploughs, Nos. 90, 94, and 234.—Reference is made to these in my 20th paragraph. The orders were issued by the Collector in order to introduce some system into the custom of allowing wood free for ploughs.

(6). Exhibits about Dahánu and Kolvan settlements, No. 95.—Government Resolution No. 1573 of the 8th March 1882, giving Legal Remembrancer's opinion as to the applicability of the Dahánu Settlement to the Umbargáv *peta*. Nos. 211 to 217, 219, 221, 228, 231, 236, 237, 239 and 240, answers to applications for leave to cut wood in lands under the Dahánu and Kolvan Settlements. No. 225, petition from Umbargáv cultivators. With this class of exhibits might be read Nos. 38, 53, 54 and 158 which also refer to the same points. No. 38 shows that in 1868 it was believed that the Dahánu Settlement was not applicable to the previously settled *peta* of Umbargáv. It was only in 1881 that definite orders were issued

on the Legal Remembrancer's opinion alluded to above. I have commented in my 31st paragraph on the refusals of permission to cut trees in land held under the Dahánu and Kolvan Settlements. The refusal in Exhibit 216, where the cutting was for sale, was proper.

(7). Exhibits about the cutting of trees in the Karjat and Panvel *tálukás*, Nos. 89, 189, 207, 208, 210, 238, 242, 243 and 244.—I have referred to some of these in my 32nd paragraph.

The issue of the order No. 238 seems to have been unnecessary: it would have been better to have waited till the Forest Settlement Officer's Panvel Report had been approved of by Government. The refusal to give leave to cut trees in Exhibit No. 207 appears to be based on the ground that the land did not stand in the applicant's name.

(8). Government Resolution No. 6550 of the 3rd November 1881, giving the Advocate General's opinion as to rights to trees on Government land and orders based on the Resolutions Nos. 93, 96, 223.—These have been alluded to in my 30th paragraph.

(9). Notices as to the pass system and head-loads, Nos. 102, 103, 232 and 233.—These have been already commented on. The rest are miscellaneous orders. No. 224, a refusal to sell teak under the old pass system; No. 98, a refusal of a free grant of wood, why refused is not clear, as such grants are made by Government. No. 97, a circular ordering that the Kánara herdsmen who come from above the Ghâts should be turned out of the forests; No. 188, an answer to a petition about forest rights; No. 235, a notice warning cultivators not to cut down trees growing on their *varkas* land. It is similar to a notice which has lately been circulated with the sanction of Government.

43. In your second paragraph you point out that the memorialists have obtained copies of Government papers, some of them of a confidential character. The most important of these papers are Nos. 93, 95 and 181. It will be seen that Nos. 93 and 95 are translations of the Government Resolutions which have been sent to the *mámlatdárs* and by them to the *talátis*. Copies of them were thus no doubt obtained, like the bulk of the exhibits from the current records of the *talátis*. Any one who knows how easy it is to get access to a *taláti's* bundle in this district, where there are no *chávdis* and where the *taláti* has generally to work on a *pátil's ota*, will not wonder at copies being obtained without the *taláti's* permission. In many cases the circulars were intended for public information, and the *talátis* probably saw no harm in allowing copies to be taken. I understand that when in December 1882 the Thána Association made a petition to Mr. Mulock about forest matters he noticed that the petitioners had got copies of orders, and was told by them that they had taken notes. I have made inquiries as to several of the papers, and can only discover that applications for copies were not made. The *taláti*, the name of whosa *saza* appears below No. 93, denies having allowed any one to copy it. It appears to me undesirable to circulate translations of Government Resolutions like Nos. 93 and 95 to *talátis*. It is more difficult to understand how the petitioners obtained a copy of Exhibit No. 181, Mr. Naylor's report on the Tipnis case. I find that the Government Resolution forwarding it was produced in 1878 at the demand of the plaintiff in the Pendse case, and copies of it had been previously sent to the Assistant Collectors. It is impossible now to say from what office the copy was obtained, but the opinion given by Mr. Naylor was no doubt well known in 1878.

I have, &c.,

W. W. LOCH,
Acting Collector.

Through

The Conservator, N. C., and the Commissioner, N. D.

*Statement showing Rates charged for Forest Produce before 1882 and at present.*

| Article. | Amount. | Rate before 1882. | Rate fixed at Conference in 1883. | Present Rate. |
|---|---|---|---|---|
| | | Rs. a. p. | Rs. a. p. | Rs. a. p. |
| Dry firewood ... ... ... ... | Large cart... ... ... | 1 2 0 and 1 0 0 | 2 0 0 | 2 0 0 |
| | Small cart... ... ... | 0 8 0 to 0 9 0 | 1 0 0 | 1 0 0 |
| | Man's head-load ... ... | 0 0 6 | 0 1 0 | 0 1 0 |
| | Woman's do. ... ... | 0 0 4 | 0 0 9 | 0 0 9 |
| | Child's do. ... ... | 0 0 2 | 0 0 6 | 0 0 6 |
| Firewood for sugar-boilers ... ... | Large cart... ... ... | 2 0 0 | ..... | * 3 0 0 |
| Firewood for Kolis ... ... ... | Per registered candy ... | 0 3 0 | ..... | 0 12 0 |
| Bámboos ... ... ... ... | *Tokar* or *Padhai* Per 100 ... | ..... | 4 0 0 | 5 0 0 |
| | *Mánvel* do. ... | † 1 8 0 | ..... | 3 0 0 |
| | | | Per 100 | Per large cart. |
| | *Bundhis* per large cart ... | 1 0 0 | 2 0 0 | 2 0 0 |
| | Do. per small cart ... | 0 8 0 | ..... | 1 0 0 |
| | Do. per head-load ... | 0 0 6 | ..... | 0 1 0 |
| | *Jhita* per large cart... ... | ..... | ..... | 0 8 0 |
| | Do. per small cart .. | ..... | ..... | 0 4 0 |
| | Do. per head-load ... ... | ..... | 0 1 0 | 0 1 0 |
| *Kárvi* ... ... ... ... | Per large-cart ... ... | 0 8 0 | ..... | ‡ 1 0 0 |
| | Per small cart ... ... | 0 4 0 | ..... | 0 8 0 |
| | Per head-load ... .. | 0 0 4 and 0 0 6 | 0 1 0 | 0 1 0 |
| Thorns for fences ... ... ... | Per cart-load ... ... | ..... | ..... | 1 0 0 |

* Reduced to Rs. 2 this year (1884-85) owing to the wood being green.
† I am not sure if this is correct.
‡ *Kárvi* will now be given free to forest villagers and wild tribes.

To

THE CHAIRMAN AND MEMBERS OF THE FOREST COMMISSION.

GENTLEMEN,

As the Bombay Government have been pleased to order in their Resolution No. 5977, dated 24th July 1885, an inquiry into the inconveniences which people suffer in connection with the use of forest produce, we, the undersigned inhabitants of the *tálukás* of Alibág, Pen, Roha, Mángaon and Máhad, in the Kolába District, composed of agriculturists, merchants, Thákurs and Kátkaris, venture to acquaint you with the inconveniences we feel from the practices introduced by local officers of the Forest Department, from which it would appear justifiable to modify the Rules framed by local Officers, as also Act VII. of 1878.

1. In this district there are some villages which are without forests, a few towns, some villages situated within and near forests, some situated in the Khárápát portion, while some are uninhabited.

2. Inquiry would appear to be necessary into our rights, which we hitherto enjoyed hereditarily, with regard to the free use of brushwood, grass, and fuel for *ráb*, and timber for buildings, obtained from forest and other waste lands; of fruits, honey and other minor forest produce; of timber for cattle-sheds and edifices; of *murum*, earth, sand, stones; of timber for the purposes of cultivation in garden and salt lands; of places for the pasturage of cattle.

3. At present it is left open by the Forest Department to make use of the ten kinds of trees, marginally noted, for the purposes of *ráb*. This indulgence is only allowed to persons who are inhabitants of the villages to which the forests in which these trees grow belong, and not to others. But some of these kinds are not to be found in the forests, while others which flourish are not sufficient for the purposes of *ráb*, and they too are not to be found in any one locality. This would also, it is hoped, be a subject for inquiry.

1. *Ukshi.*
2. *Dhávti.*
3. *Phángli.*
4. *Kálákuda.*
5. *Bharekuda.*
6. *Ambani.*
7. *Bhorjámbhul.*
8. *Karavati.*
9. *Kaunda.*
10. *Páyari.*

4. We are informed that it is the belief of several Government officials that dry leaves serve the purposes of *ráb*. But if the *ráb* so prepared is made use of, the yield of rice plants and crops is far from being good, as experience has shown; inquiry would prove that for purposes of *ráb* boughs and brushwood are essentially necessary.

5. From time immemorial it has been the custom, nay the privilege, of people of all the villages to lop the surrounding branches of all kinds of trees for purposes of *ráb*; inquiry will show that this process has not only done little harm to the trees, but has on the contrary been found beneficial for their healthy growth.

6. There are three classes of people who use fuel:—

(*a*) Those who fetch it for their own use and sell it for their maintenance.
(*b*) Those who fetch it in quantities sufficient for their maintenance alone.
(*c*) Those who purchase it.

We have amongst us these three classes, and it was once customary for us to bring fuel from any forest as a matter of right; but this custom has now been impeded by recent regulations, which inquiry will show should not be allowed to exist.

7. In the fourth query of their Resolution the appointed Commission have ordered that the people in villages adjacent to forests, who carried articles for *ráb* should, on payment of an amount equal to the expense, obtain the necessary articles: inquiry will show that the agriculturists are on account of their poverty not in a position to pay for and obtain them.

8. The number of the sites for the pasturage of cattle has, since the introduction of the Survey, been much reduced, and the consequence was that the cattle suffered somewhat from the inconvenience. But since the introduction of the forest settlement the matter has grown worse. The cattle have suffered both in strength and number and the result is that agriculture has been gradually dwindling. Inquiry will, therefore, appear necessary to ascertain how important it is to restore former rights with regard to the pasturage of cattle, and to determine how far the statement is based on experience and authority of some of the Government officials, who state that the forests are injured if such rights are ceded, and that to prevent injury to them it is necessary to impose some tax on the pasturage of cattle, and finally to judge of the condition of the agriculturists to pay the tax if it is imposed.

9. It has been the hereditary custom for the cattle in the villages adjacent to *khártan* lands to graze in *khártan* lands and to devour the foliage of the tree called *vahad* or *turang*. It is hoped that this custom may not be interfered with.

10. It has also been the rightful custom for people to make use of the tree mentioned in para. 9 above for purposes of fuel and repairs to *khárs*, which we pray should not be allowed to suffer.

11. It was the customary right for agriculturists to fetch gratis, from forests, the requisites for the plough, for the temporary erection made in fields for the preservation of crops, and wood for the *rahát* and wells in *bágáyat* lands. This right has almost been dis-

appearing, and we have been in consequence suffering loss. We pray, therefore, that inquiry be made and our customary right be restored to us as described above.

12. Poor agriculturists, Thákurs, Kátkaris and Mhárs, should be allowed free timber for repairs to or construction of their dwelling-houses once during the period of at least five or ten years. This was once customary, and is now disappearing. These poor people are therefore groaning under the heavy pressure of payment for timber, which inquiry will show they are unable to cope with.

13. The Thákurs and Kátkaris do not possess ploughs and they should, therefore, be allowed to rear *varkas* crops in forests with the pickaxe. It was customary to allow them to cultivate ten *pánds* or half an acre of land free of assessment. This indulgence should be continued to them, as inquiry will show how these people have been suffering from the absence of these means.

14. For the protection of crops in garden, rice-crop, *rabi* and *varkas* lands, and for the safety of houses and sheds in villages it is necessary to fix enclosures and it had been customary for a number of years to obtain free for the purpose branches and other similar forest produce. This custom has, however, now been put a stop to, and these articles are obtained on payment of fee of a rupee for a cart-load and of two annas for a head-load. Most of us being poor, are not in a position to pay for these necessaries, nor are these articles procurable elsewhere. The trees of which the branches, &c., are used for purposes of enclosure are not timber, but ordinary useless ones, und still a heavy fee is imposed; inquiry would, therefore, appear necessary to show that it should be permitted to the people to have free recourse to their former custom.

15. The custom of raising *varkas* crops has now disappeared in consequence of the forest administration, and the result is that hundreds of people are starving; the reason being that the outturn of the rice crop in rice lands in this district is not sufficient for the maintenance of all. Inquiry should, we pray, be made to ascertain whether it is or is not proper to allow *varkas* crops to be reared in forests as was hitherto the case.

16. In consequence of the obstructions at present raised in the way of obtaining materials for *rán*, pasturage of cattle, rearing of *varkas* crops and removing of forest produce and timber, &c., several people are starving. An inquiry will appear necessary to determine whether the people have means wherewith to meet the burden of payment.

17. When the above-mentioned liberties were ceded to the people, what was the expenditure on account of the management of forests, and what must it be since they have been withdrawn. We beg to state that it is more now and will be reduced if the liberties are restored to the people without any loss to Government. This point also needs inquiry.

18. It is the frequent complaint of Government officials that at present much of the area has been denuded of forests. It ought to be decided by inquiry whether this has been or has not been the case; what kinds of trees have become thinned in number, and whether the cause lies with the rayats or Government.

19. The owners of *málki* numbers had a legal right to fell all kinds of trees in their numbers, and this right was supported by Government Resolution and enjoyed by the owners. It is now put a stop to, and inquiry will show that it is necessary to allow these owners the right they hitherto enjoyed.

20. Some of us are *khots* who enjoy altogether different rights as regards forests, that is, the *khot* enjoys a proprietary right over all the forest in the village. A separate petition is being submitted by the *khots*, and it is hoped that their rights may be inquired into. This petition will only refer to *dhára* lands belonging to the *khots*.

21. The statement of Government that with a view to the encouragement of forest growth they would give as an act of grace what they will to people who have no ownership over forests is not proper, inasmuch as people have such ownership, and it should be decided that people have the rights mentioned above for purposes of agriculture and domestic use. If a decision like this be given and the liberties of the people restored to them, the expense which Government has now to suffer on account of the growth of forests by way of protection and management will not accrue, and we shall take care about the growth of forests. Evidence might be taken to prove that this was done by us and duties of the rayat and Government distinctly laid down.

22. Several low-paid officers having been appointed by the Forest Department for the protection of forests, they have become a cause of frequent annoyance to the poor agriculturists. We therefore humbly beg to state that if the above described obstacles are removed the employment of such officials will not be necessary. They were not required before. The villlage *pátil*, agriculturists, *khots* and *talátis*, if held responsible, will protect forests equally well.

23. We are not in possession of recent rules, still the course now observed as laid down in Government Resolution No. 8133 of 9th August 1880, and subsequent Resolutions in reference to it, is troublesome. For this purpose the rules regarding the fixing of passage through forests, and of giving passes for removal of forest produce, and of preparing *rán* for *varkas* cultivation may be rescinded. If the liberties as above-mentioned are given to us, there will be no necessity for such rules. Whether the annoyance complained of is real or not can be ascertained by inquiry.

24. Since the promulgation of the Forest Act notices have been published in the Gazette of 6th March 1879 and subsequent ones about the lands to be declared as forests. The Forest Settlement Officer after inquiries made, has decided in several cases that no rights of any sort whatever of private individuals exist in regard to those lands. These decisions not being in consonance with the custom hitherto prevailing are diametrically opposed to the rights of individuals. It should be ascertained after inquiry whether these decisions should be allowed to remain unaltered. It may also be stated here that in this district an inquiry into appeals was not made before a Forest Court as laid down in paragraph 2 of section 16 of the Forest Act, and as no inquiry was made in a court of law rights of individuals have been trampled upon which need to be inquired into.

25. Some of the sections of the present Forest Act require modification, and we beg to recommend them as follows:—

(*a*) Section 2, which defines forest produce includes all kinds of produce. The modification should be "excepting that which the people have a customary right to bring."

(*b*) Section 3 lays down that if required waste lands in villages may be declared forest. The modification should be that certain portion of such land should be kept for the use of the village and the rest taken for forest purposes.

(*c*) Section 5 lays down that documentary evidence should be taken to establish ownership over land, but as the duration of custom and usage of land can be proved by oral evidence, the modification should be to that effect.

(*d*) Section 11 lays down that the rights of individuals with regard to places for the pasturage of cattle may or may not be recognised. The modification should be that the right may be recognised and any surplus land disposed of.

(*e*) The appeals to be inquired into under Section 16 should be inquired into by officers of the Judicial and not of the Revenue Department.

(*f*) The right of closing passages provided for in Section 24 should not exist.

(*g*) Section 25 should be so modified as to embrace the provisions of Section 95 of the Indian Penal Code.

(*h*) The rules to be framed under Section 41 should not be opposed to the rights and customs of individuals.

(*i*) Section 68 lays down that if any property be found in the possession of individuals, it is to be presumed that it belongs to Government until it is proved that it has been acquired by certain means. This is against the provisions of the Evidence Act, for the burden of proof should not be upon the person who possesses the property.

(*j*) Section 69, which is about imposing tax on cattle is not at all necessary.

(*k*) Section 71, which lays down that the depositions taken down by forest officers should be taken as evidence in the record of the case, should be modified, for according to the Criminal Procedure Code, the depositions taken by the Police are not taken in that manner.

26. The above are the points on which we solicit inquiry, the Resolutions passed by Government from time to time not being in our possession we could not explain satisfactorily the inconveniences thereby caused. Each village has similarly different customs and inconveniences in certain respects. We have not yet received papers required from them, and are therefore unable to state these customs and inconveniences at this time; we hope however to communicate them as soon as the papers are received. It is also our prayer that Messrs. Vithal Mahádev and Sitárám Vithal, the Secretaries of the Sárvajanik Sabha, and another Vakil, if appointed by us, may be allowed to be present at the sittings of the Commission they will represent us, and we pray that the documents they give in evidence, and the witnesses they name may be examined, and that should they request for any papers from Government record, they may be obtained, and we may recommend to the Bombay Government that the points enumerated above may be disposed of as expressed by us. For this act of kindness we shall be thankful to you.

We beg to remain,

Gentlemen,

Your most obedient Servants,

Signatures 18,675.

*Alibág, 5th October* 1885.

*Uran, 17th October 1885.*

To

G. VIDAL, Esq., C. S.,
Chairman, Forest Commission.

Sir,

We the undersigned Merchants, Landholders, and Cultivators of *peta* Uran, *táluka* Panvel, *zilla* Kolába, beg respectfully to submit, pursuant to your Notification dated the 27th August 1885, our undermentioned grievances, in the earnest hope, that the Commission will be pleased to take them in their favorable consideration :—

1. No *ráb* can be had for our fields. In order that we may get the same, Government may be pleased to permit us to cut off branches of all trees and grass growing in the forests.

2. The land set apart at present for grazing purposes is quite inadequate. Before the forest settlement, the cattle belonging to us used to graze on all the forest land, but as the present reserved portion is inadequate, the cattle have been the sufferers and there is every chance of their number being diminished. There is thus the danger of the work of cultivation being impeded.

3. The right of collecting fuel from the forest has been exercised and enjoyed by us from time immemorial, but the same has of late been stopped and interdicted. We, therefore, beg that the Commission may be pleased to inquire into this matter and permit the fuel to be gathered in the forests.

4. Poor people have had hitherto enjoyed the privilege of collecting fruits, leaves of *temri* tree, honey and other produce, which has been recently withheld from them, and we pray that the same may be restored to them.

5. There are teak trees in our own proprietary lands which belong to us absolutely. We pray that an enquiry may be made into the matter.

6. With reference to the question as to whether or not some price should be fixed on the materials used for making *ráb*, we beg to submit that the people are not in a position to buy the materials for making *ráb* for the purposes of agriculture, and we have hitherto enjoyed the right of collecting the same *gratis*.

7. There are several employés of a lower grade in the service of the Forest Department, who are a source of great tyranny and oppression to the people. If the above-mentioned privileges be granted to the petitioners, they will most willingly exert themselves to preserve the forests as they have hitherto done, and the Government will consequently be saved a great deal of expense incidental to the preservation thereof.

8. We further submit that Government may reserve to themselves the right over teak and blackwood trees, growing on their own lands, except those which belong to us by right of proprietorship, but the Government should be pleased to allow the people the use of such wood for building and ploughing purposes. As to the remaining kinds of trees, the people should be allowed to exercise their right of enjoyment. As to the management and supervision of forests, the same should be entrusted to the village officers as before. We pray that the Commission may be pleased to consider the fact that Government is always trying to set up their proprietary rights to the forests and that the people are, therefore, labouring under considerable anxiety.

The above are our complaints. We shall be ready with our witnesses on the day the Commissioners may be pleased to appoint, intimation whereof may be given to us for the purpose.

We beg to solicit the favour of your getting such Government records on the subject of our complaints as we may specify in the list which we may submit to the Commission on the day of investigation.

We beg to remain
Sir,
Your most obedient Servants,
Signatures.

To

His Excellency SIR JAMES FERGUSSON, Bart., K.C.M., G.C.I.E.,

Governor in Council, Bombay.

The humble petition of the inhabitants of the Kolába District.

Most respectfully sheweth :—

That in accordance with the provisions of the Indian Forest Act of 1878 passed in the Governor General's Legislative Council, Your Excellency in Council framed rules regarding Reserved and Protected forests on the 6th of March 1879 and on subsequent dates, and published them in the Local *Government Gazette* from time to time. Your petitioners now take leave to observe that the decisions passed by the Settlement Officer on the basis of these rules have discarded the immemorial rights and privileges of the people,—rights and privileges recognised and continued by the Peshwa's and Angria's Governments and until lately, by the British Government also. Some of these decisions were appealed from and confirmed by the higher authorities. As these rights and privileges have thus been interfered with, the inhabitants of this Collectorate assembled in a body on the 7th January 1883, when it was unanimously resolved that a memorial should be submitted to the Viceroy in Council praying for an amendment of the said Act and another to your Excellency praying for a modification of the rules published in No. 4133, dated 9th August 1880, which have caused such oppression and annoyance to the inhabitants.

2. Agreeably to the above resolutions your petitioners have framed a memorial containing copies of documentary evidence in their favour and beg to submit it to your Excellency to be forwarded to the Viceroy in Council with your Excellency's favourable views. Your petitioners also take leave to present to your Excellency a copy of the same from which your Excellency will be pleased to observe the promises given from time to time by the Government of Bombay, and its officers, as also several equitable decisions of the Bombay High Court passed in favour of the people. While your petitioners memorialize the Governor General in Council for an amendment of the Forest Act of 1878, they at the same time respectfully approach your Excellency in Council for a modification of rigorous enforcement of the rules framed by your Excellency in Council under the same Act.

Your petitioners take leave to suggest the following modifications :—The provisions contained in the 2nd and the 3rd clauses of the Rules (No. 4133 of 1880) as they stand have seriously hampered your petitioners in their agricultural pursuits : hence your petitioners humbly suggest that there should be no necessity of a pass for the owner to take away the cuttings and other forest produce of a private survey number. If, however, the granting of a pass be deemed indispensable by the Government, the *talâti* or *pâtil* or the *khot* of the village should be authorised to grant it without charging the fee contemplated in the clause 9 and without subjecting the party to any annoyance, for, your petitioners beg leave to observe that the levying of fees under the clause is equivalent to burdening them with an additional tax. The passages restricted in Schedule A of the Rules are extremely few and subject your petitioners to great inconvenience and expense ; hence your petitioners pray that the restriction as to passages may be removed.

3. Your petitioners have also to memorialise your Excellency against the decisions of the Settlement Officer referred to above, but as they desire to do it by a separate petition, they beg not to say more about it here.

4. Your petitioners take leave to enclose a copy of the notification published by the Collector of Kolába in accordance with the Government Resolution No. 1203, dated 14th February 1883. The notification in question has at once put an end to your petitioners' rights long since enjoyed, and unless immediate and proper steps be taken, its working is sure to involve your petitioners in distress and misery. Your petitioners therefore humbly take leave to suggest in it the following modifications :—

(1). There are in this Collectorate some small villages which are uninhabited, so also there are a great many people who live in one village and own and cultivate land in another ; and clause 1 of the above notification practically denies them passages through the blocks of Reserved and Protected forests, in consequence of which they are obliged to take a circuitous route and lose their valuable time. The restriction therefore should be removed in favour of the owners and cultivators of lands.

(2). The clause 2 should be so altered as to give permission to all the owners and cultivators of lands to cut down grass in all forests.

(3). In clause 3 permission should be granted to take away the cuttings of all forest trees and bushes for *ráb* (manure) instead of only those of the ten kinds. Your petitioners beg to observe that some of the above ten kinds are not to be found in this Collectorate. Besides, even, when there was no prohibition to get twigs of all kinds of trees, they did not afford sufficient *ráb* which had to be supplemented by thorny and other bushes. Hence the above restrictions greatly interfere with the obtaining of *ráb*.

Your petitioners take leave to observe that the soil of this Collectorate is solely dependent for its fertilization upon its burning, which can only be effected by means of the twigs of the jungle-trees. Hence the prohibition to cut them is calculated to interfere with the rearing of crop and the means of subsistence of your petitioners and their payment of Government assessment. Your petitioners also pray that the present limit of thickness placed on thorny trees should be removed.

(4). With regard to the 4th clause your petitioners take leave to say that the proprietors and cultivators of lands should be allowed to take fuel for their home consumption free of charge from the jungles of the villages in which they have their lands whether they live in those villages or not, and the Kátkaris, Thákurs, Mhárs and other poor and wild tribes who earn a precarious subsistence by selling fuel from the jungle for one or two annas per head-load should be generously and mercifully permitted to get it free of any charge.

(5) With regard to the fifth clause your petitioners humbly beg to point out that the fee for a cart-load of thorny bushes brought for hedges and *ráb* is one rupee. They are necessary for the preservation of *bágáyat* crops and never grow to be fit for building purposes. Hence your Excellency in Council will be pleased to remit this exorbitant and oppressive fee on a material so indispensable to agricultural purposes. By way of illustration your petitioners take leave to calculate that the Government revenue per acre of the *bágáyat* land varies from Rs. 10 to 12 and its fencing requires at least ten cart-loads of thorny bushes and consequently ten rupees fee; which is equivalent to doubling the assessment. With regard to the *varkas* lands their fencing is out of the question, since an acre which gives an outturn of Rs. 5 or 7 would cost Rs. 10 at least for the purpose. History affords no example of previous rulers of this country having levied any fee on the cutting of such little plants and bushes.

(6) In regard to clause 6 your petitioners take leave to say that the poor wild tribes should not be obstructed in getting the wild fruit and honey at great sacrifice and in the heat of the day, nor should it be left to the sweet will of the jungle officers. Your petitioners also beg leave to observe that the people of the towns and villages of this Collectorate make use of the herbs of the jungle as medicine to a large extent, hence no one going to the forest for medicinal herbs should be hindered from so doing.

5. And your petitioners as in duty bound will ever pray.

Signed by 16,462 Rayats of the Kolába Collectorate.

*Dated Alibág, 19th December 1883.*

To His Excellency the Most Noble

The MARQUIS OF RIPON, K.G., G.M.S.I., & G.M.I.E.,

Viceroy and Governor-General of India.

The Humble Memorial of the
Inhabitants of the Kolába
District.

Respectfully Sheweth,

That your memorialists, who are inhabitants of the district of Kolába in the Bombay Presidency, being put to very serious loss and distress in consequence of the working of the Indian Forest Act No. VII. of 1878 in their district, take leave to approach your Excellency in Council with this memorial, in the hope that the facts and suggestions contained in it may receive favourable consideration at the hands of your Excellency, and that such relief may be afforded to your memorialists as may seem called for by the circumstances of the case.

2. Before proceeding to draw your Excellency's attention to the specific portions of the Act above referred to which your memorialists wish to see modified, your memorialists would beg leave to point out generally the nature of the loss and distress to which the people of this district are put by the working of that Act. During the time of the Governments which preceded the British, all the inhabitants of the Kolába district, who were then as they are now, mostly agriculturists, were held to be entitled to cut down as much timber, fuel, &c., in the jungles of the district, and generally to take as much of the produce of those jungles, as was properly required for the purposes of agriculture. Thus loppings of trees, dried leaves, brushwood, and such other things, for what is called *ráb*, or the burning of fields preparatory to their cultivation; as well as inferior wood for ordinary household consumption and wood of superior kinds for the agriculturists' cottages and for ploughs and other agricultural implements; these were always available to villagers in the Kolába District out of the produce of the forests in the district. The Governments of the Peshwás and Angriás were fully aware of the advantages flowing from the preservation of forests, and they did not permit an indiscriminate cutting down of teak and other superior timber in the forests of Kolába. But as to other forest produce the agricultural population of the district could always obtain it without charge for their own purposes.

3. In the early years of British rule in this part of the country, the regulations of the Peshwás and Angriás were certainly not modified in the direction of increased rigour. Even timber trees were allowed to be cut down without any due precautions. And as to other kinds of forest produce, the practice of the former Governments and the enjoyment by the villagers of the portion of forest produce above referred to, were in no wise interfered with. Your memorialists could adduce a large mass of documentary evidence in support of this statement, but as such a course would only increase the size of this memorial to very excessive proportions, your memorialists content themselves with extracts from one or two documents culled from the collection in their possession. From a letter No. 412 of 1831, dated 31st October 1831, addressed by Mr. Reid, Principal Collector, to Mr. Thomas Wilson, Secretary, it appears clearly that only one of the forests in this district, viz., Tudil, was treated as a Government forest, while Mr. Dunlop's proclamation, referred to in the 4th paragraph of that letter, shows that in this district the prohibition against cutting wood even in that jungle was removed by Government. In a letter No. 1530 of 1842, addressed by Mr. Langford, then Collector of Thána, to Mr. Simpson, the Revenue Commissioner, and dated the 25th November 1842, the former officer says:—"Excepting teak trees, the cutting of which has everywhere been prohibited, there appears no restriction on other jungle woods in this Collectorate; these are cut by any one who requires them, a small fee being paid to cultivators, if such trees are within their *ráb* or manure lands." Again in a Circular No. 49 issued to the *mámlatdárs* of the various *tálukás*, in this district on the 12th of August 1847, Mr. Law, the Collector of Thána, after pointing out that the so-called *varkas* cultivation had been most ruinous in its effects, directed the *mámlatdárs* as follows:—"You should, therefore, take such steps for the discontinuance of this practice as would neither cause a loss in the Government assessment, nor encroach upon the claims of the rayats, that is, you should not prevent *varkas* cultivation, but should prevent such cutting in places abounding in forests containing large trees. In the same way you should not stop the practice, wherever it may exist, of the rayats cutting saplings for *ráb* purposes, but in such cases, too, you should prevent the cutting of any timber tree which might have grown large, or might be likely to be so." Again, in the same Circular Order it is said:—"But you should not interfere with the practice, which has obtained from the first, of taking wood for fuel from waste or *kuran* lands, care being taken that trees which grow large enough to be fit for building purposes, are not cut even when they are small." And after the specific instructions are completed, the order proceeds, "These instructions should be carried out. It should, however, be borne in mind that this arrangement does not deprive poor people of the means of their subsistence."

4. From these extracts and from other papers annexed hereto and marked A, which point in the same direction, your memorialists submit that it becomes manifest that after the British power was established in this part of the country, the claims of the agricultural population of the district to use forest produce without payment for *ráb*, and similar agricultural purposes were fully recognized by the authorities. In truth it may be said that the documents show that the Government only prevented the indiscriminate use by the rayats of teak and other superior timber grown in the public forests.

Under the operations of the Forest Act all this has been changed. No forest produce whether for purposes of *ráb* or manure, or for other employment in connexion with the cultivation of their holdings, is now available to the rayats of this district as it was before the Act was passed. Even the rights guaranteed by Mr. Dunlop's proclamation and upheld by the High Court of Bombay on the basis of that proclamation are now interfered with. Your memorialists conceive that no such result was intended or contemplated by the Legislature, when the Forest Act was passed. But the officers who are charged with the working of the Act, and whose permission is necessary under the Act for making use of any forest produce, have so rigidly enforced the supposed intentions of the Legislature that what was enjoyed by the people throughout the time of the former Governments and of the British Government itself, has been now entirely taken away from them. Your memorialists therefore submit that instead of the vague and indefinite form in which by the present Act, powers are given to the officers administering it, to give leave for the use of forest produce, your Excellency in Council, will either by fresh legislation or by official order, direct that wherever the practice has existed of allowing public forests to be drawn upon for hedge, *ráb*, manure, and other agricultural purposes, including agricultural implements and buildings, those forests should continue to be allowed for such purposes without any charge and without any unnecessary obstacles in the way of the rayats. Your memorialists need scarcely point out that every difficulty and expense, to which rayats may be put in cultivating their lands, has the effect of making the pressure of the Government assessment upon them heavier, as the assessment was fixed at a time when forest produce was available to them for grazing cattle and for the *ráb* and manure of their fields. And this is the more particularly to be remembered with reference to the district of Kolába, for the thirty years during which the last land settlement has to run, have not yet expired, and the present orders of the Forest Department therefore really operate to deprive the rayats of this district of rights regarding the grazing of cattle and *ráb* of their fields, which were expressly reserved to them under the last settlement, inasmuch as those orders declare lands set apart for those purposes at such settlement to be Reserved forests under the Act. Your memorialists would beg to lay before you a few figures which will indicate the extent of the loss thus occasioned to the rayats of this district. There are 105,000 acres of land, besides the *málki* lands in the Kolába district, the materials for the *ráb* of which were derived from the forests now declared Reserved forests, and the average cost of the *ráb* which the landowner has now to bear, is on an average Rs. 8 per acre per annum. Again there are 132,361 head of cattle in the Kolába District, and the expense for the grazing of all these animals is about Rs. 5 per head per annum. All this was saved by the rayats before the common grazing grounds set apart under the last settlement were declared to be Reserved forests. Further, the population of this District is 381,649. Nearly three lacs of this population used to draw their fuel from the forests now reserved, and they have now in consequence of that reservation to pay the expenses of fuel themselves, which may be fairly estimated at an average of Rs. 5 per head per annum. Your memorialists will not trouble your Excellency in Council with further details, but they trust that your Excellency in Council will perceive from the figures now set forth what heavy charges are now thrown upon them so suddenly under the operation of the Forest Act.

6. Your memorialists further submit that all holders of *dhára* lands in the district should be declared entitled to all trees, whether timber trees or others, growing on their *dhára* lands. Such a provision would be in entire consonance with the spirit of Article 11 of the Joint Rules, in which it is laid down that under certain circumstances in all classes of Government lands, and under all circumstances in certain classes of land which is the property of the occupants, the trees growing on such lands are subject to the full proprietary rights of the occupants. Your Memorialists submit that the principle of this very reasonable and just provision is fully applicable to the case of *dhára* lands, and ought to be declared by your Excellency in Council to be applicable to them. In 1868 the Government of Bombay made such a declaration by its Resolutions No. 1240, dated 28th March 1868, and No. 2095 of 27th May 1868. Similar Resolutions, under certain circumstances, were made as regards lands held by ordinary survey occupants, viz., No. 2291, dated 18th June 1864, and No. 3412, dated 18th September 1868, and No. 6980. But these declarations are now no longer held to be really operative. Your Excellency will perceive from a letter No. 2028, dated the 10th of March 1840, addressed to the Government of Bombay by the then Revenue Commissioner, that the landholders of this part of the country are by no means unaware of the benefit of a well-regulated system of forest preservation. And such a declaration, as your memorialists suggest, will therefore have the effect of helping the development of tree and vegetation in this district rather than the contrary.

7. Your memorialists further submit that in accordance with the practice which has been in existence from old times, provision should be made for a reasonable use of forest produce for the grazing of the cattle of the agriculturists, and that greater liberty should be given for

the collection of honey, fuel, &c., in these forests to those poor classes of people such as Kátkaris, Mhárs, Thákurs, &c., who constitute nearly half of the population of this district, and who have lived for many generations by trade in those articles. These poor people are particularly worthy of some indulgence at the hands of Government because the mode in which the Forest Act is at present worked really deprives them of the occupation which they have been engaged in for years, and because, as your Excellency in Council is aware, a sudden change of occupation and long-established habit is not to be expected, especially from this class of the Indian population. A Resolution of the Government of Bombay, No. 1179, dated 27th March 1860, ordered, doubtless out of regard to the circumstances above referred to, that about ten *páṇds* of land should be given gratis to these Kátkaris.

8. Your Memorialists believe that the prayers and suggestions contained in the preceding paragraphs are in no wise incompatible with the policy or intentions of the Legislature in enacting the Indian Forest Act of 1878; and they submit that the points to which they have drawn the attention of your Excellency in Council are those which the Legislature probably contemplated as proper matters to be dealt with under the provisions of such Sections as Section 25 or Section 33 of the Act. But your Memorialists have nevertheless ventured to draw the attention of your Excellency in Council to them because, as a matter of fact, the points have not, as your Memorialists submit, been properly dealt with by the local officers; and further because your Memorialists humbly think that these are matters which ought to be dealt with, so far as the general principles involved in them are concerned, by the highest authority in the land, especially as that authority is the one which may be fairly supposed to be best conversant with the intentions of the Legislature in passing the Act in question.

9. Your Memorialists would beg next to point out the various sections of the Act in which they submit some modification should be made. In Section 2 they submit the definition of Forest produce is too wide, but they need not very strongly press their objection to it, if the whole of the prayers contained in the preceding paragraphs are granted. Regarding Section 3 your Memorialists, while fully sympathising with the object of the Legislature in providing for forest preservation, submit that such preservation ought not to be carried to the extent of doing serious injury to the people. Admitting that forest preservation is most important for the prosperity of the country in future, your Memorialists venture to submit that some regard is also due to the claims of the present generation, and that Government in reserving or protecting forests for the benefit of posterity ought to see that their subjects in the present day are not seriously crippled and embarrassed in the work of cultivating their holdings. Your Memorialists submit that it should be declared that reservation and protection as provided for in the Act, should not be permitted to interfere with the long enjoyment of forest produce by rayats for agricultural purposes. With regard to Sections 4 and 16, your Memorialists submit that as the questions to be adjudicated on by the tribunal therein referred to, are questions of right, such tribunal ought to consist of either a Judicial Officer sitting alone, or if it is preferred of three officers, two of whom shall be Judicial Officers and one a Revenue Officer under each Local Government, with an appeal in either case to the High Court. With regard to Section 25 and all similar sections in the Act, such as Section 32, &c., your Memorialists fail to see any sufficient reason why the various offences referred to in them should not be left to the operation of the general Criminal Law of the country. Your Memorialists from recent experience are very apprehensive regarding the operations of these sections in special Acts like the present. With regard to Section 31 and Sections 51 and 75, your Memorialists presume that the views recently expressed by the Government of India regarding rules made by the Executive Governments under powers vested in them by Acts of the Legislature will be held applicable to rules framed under the Act. Your Memorialists submit that the present is a case specially calling for the application of the principle enunciated by your Excellency's Government, because these rules may and often will affect the private rights of individuals or the established practices of the country. With regard to Section 63, your Memorialists submit that it is dangerous to entrust all the powers, therein referred to, to Forest Officers. Your Memorialists conceive that it will be sufficient for all the purposes of the Act to give power to Forest Officers to stop any property in regard to which any suspicion of any Forest offence having been committed exists. But your Memorialists contend that it is quite unnecessary and undesirable to let any officers, other than the Judges of the established Criminal Courts of the country, interfere, on suspicion, with the personal liberty of any of Her Majesty's subjects. As regards Section 68, your Memorialists submit that it is very hard that at all events in criminal proceedings the Courts should be directed to make presumptions, the reverse of the presumptions which apply in ordinary cases, merely because the proceedings relate to Forests and Forest offences. You Memorialists submit that there is really no ground whatever for contravening, as Section 68 certainly does, the well established and reasonable principle which has been borrowed from the English Criminal Law and always applied in this country. Lastly, as respects section 71, your Memorialists submit that Forest Officers should for such purposes as are referred to in this section be treated as standing on the same footing with Police Officers, and that as the same reasons apply in the case of the former and of the latter, any statements made before Forest Officers ought to be held inadmissible in evidence, where they would have been inadmissible if made before Police Officers.

10. Upon the grounds hereinbefore set forth, your Memorialists venture to submit that the Indian Forest Act of 1878 requires sundry modifications both in its actual provisions and in the modes in which it is enforced. Your Memorialists very sanguinely hope and believe that the facts and arguments contained in the preceding paragraphs will receive due attention at the hands of your Excellency in Council, and they pray that your Excellency will—(*a*) take the necessary steps to amend the Act in question in the particulars above referred to, and (*b*) also issue such orders as may ensure the undisturbed enjoyment by the rayats of this District of those articles of Forest produce which they have been accustomed to use free of charge for agricultural purposes during the *régime* of the British Government as well as of its predecessors.

And your Memorialists as in duty bound will ever pray.

Signatures 26,673.

*Despatched on 19th December 1883.*

To His Excellency the Right Honorable.

EDWARD ROBERT LYTTON, BULWER LYTTON, BARON LYTTON, G.M.S.I.,

Viceroy and Governor General of India, Calcutta.

The humble Memorial of the Inhabitants of the Collectorate of Kolába (Alibág) in the Presidency of Bombay.

Most Respectfully Sheweth,

That great terror and anxiety have arisen in the minds of your humble Memorialists, since they read the Maráthi Translation of the Indian Forest Bill published for the information of the public in the *Bombay Government Gazette*, after its first reading in Your Excellency's Legislative Council.

2 That your Memorialists very much fear that if the Bill be passed into law the rights, usages, and privileges relating to the forests which they have enjoyed from time immemorial will be violated seriously. They therefore humbly make some suggestions for the information of Your Excellency in Council which they trust will be taken into consideration at the time of the passing of this Bill into law.

3. That it appears from the construction of the aforesaid Bill that the proposed law is to be made uniformly applicable to the whole of British India. But upon a slight consideration of the matter, it will appear that it will not be proper to make the same forest law applicable even to the two great divisions of this Presidency—the Konkan, and, the Desh (that is, the country above the Ghâts). For, the use of the forests in these two divisions is quite different. In the Konkan no crops can be raised on the greater part of its lands without those lands being burnt every year. And thus there is an inseparable connection between the raising of the crops and the cutting of the jungle in the forests. That is to say, the grass, the brushwood, and the small branches of trees and twigs are absolutely necessary for the purpose of burning the soil with. This will show that even though the proposed law prohibiting all access to the forests may perhaps be applicable to some parts of India, it will certainly be mischievous and pernicious in its effects to the country of your Memorialists.

4. That from time immemorial before the advent of the British rule and since the introduction of this rule up to this day it has been the undisputed practice and usage of your humble Memorialists to make use of all the trees in the forests adjoining to their villages for the purpose of making cuttings for burning their lands with for raising crops thereon; and this practice was confirmed even at the introduction of the Revenue Survey. Before the introduction of the Survey, cultivable lands only were liable to the Government assessment; and the payment of this assessment only gave the rayats the right of making cuttings in the forests of their villages and territory without any extra payment for the use of the jungle. At the Survey, all lands, cultivable as well as non-cultivable, such as grass and brushwood lands, &c., were measured and surveyed and rendered liable to assessment. But at that time the most distinct and clear promises were given by the Government to the people that they should not be subjected to any extra payment for the use of the jungle or for other articles, such as stone, sand, &c. Yet the Government of Bombay passed an Act No. III of 1869 and legalised a tax called the Local Funds Cess imposed on them before the passing of the Act. The same was accepted, by the people through feelings of loyalty. But the Government did not then interfere with and disturb your Memorialists' immemorial right of making use of the forests for their agricultural and horticultural purposes. Up to this day the people have been allowed to cut all kinds of trees growing in their proprietary and private revenue survey numbers, and all trees, except teak and *sisu* tree, growing in the public forests. This usage has continued undisturbed even under the British Government for more than thirty years, and under the Native Governments from time immemorial. Thus the people have acquired prescriptive rights to the use of the jungle. Yet the proposed law seeks to destroy these rights and violate the promises given all at one blow.

5. That your Memorialists submit that if even though the rayats pay the full assessment on their lands, yet they are not to be allowed to make use of the means which are absolutely necessary for their agricultural operations, it will not only be no encouragement to agriculture but will be a positive discouragement and impediment to their occupation; nay it will be an obstruction worse than any which a most despotic government may devise for the annoyance of its subjects.

6. That Mr. Dunlop, the Collector of the Konkan, was the first to make rules for the regulation of the forests; and published a proclamation on the 1st of March 1824. Dr. Gibson was the second officer who made any rules on this matter. But both these officers reserved full liberties to the people to make use of the forests for their agricultural and horticultural purposes. But the proposed legislation is seeking to place entire restriction on the use of the forests. Your humble Memorialists therefore sumbit that if the promises given by such high Government officers as those named above are now violated by special legislation, the rayats will not be able to place reliance on the promises of Government.

7. That in rule No 10 of the rules published by the Government of Bombay at the introduction of the Revenue Survey and known to the people of this Presidency as the "Joint Rules," it is laid down that an uninterrupted use and enjoyment of the forest for twenty years confers a proprietary title on those who have been making such use as aforesaid. Yet the proposed legislation is entirely opposed to the spirit of this rule.

8. That your Memorialists submit that the present legislation by placing entire restriction on the use of jungle will be highly injurious to the peaceful inhabitants of this country in a way of which the Supreme Government may perhaps not have even any idea of. There live in the forests of this country and territory wild people called the Kátkaris, the Thákurs, and the Dongar-Kolis, &c. The corn they grow for their use in the hilly forests is grown without the lands being ploughed beforehand. Hence the yield of their crops is barely sufficient for their maintenance even for a few weeks in a year. Their principal means of earning their livelihood, therefore, is the cutting of dry wood in the forest and selling the same for fuel to the inhabitants of the villages. This has been their occupation and mode of earning livelihood for ages past. But if this is now stopped, it will be extremely difficult for them to earn their maintenance without a resort to unlawful means such as plundering the peaceful and armless and therefore helpless inhabitants of the villages. Yet this present Bill proposes to treat their occupation as a penal offence: the result of which will be, if the Act will be enforced, that these classes of wild people will surely plunder the people of the villages. In addition to this, in such a case, thousands of these wild people will have to be thrown into the jails and maintained there at the cost of the general public.

9. That the majority of the people of this territory, living in the villages, is in a very poor condition indeed. Agriculture is only one means of earning their livelihood. But the yield of their lands is so small that they are seldom able to get full nourishment for more than two months in a year, that is, for two months after the crops are gathered in, the rest of their agricultural produce goes to the payment of the share of their land-lords, the Government assessment, and the demands of their creditors. For ten months in the year, therefore, they have to maintain themselves by hard labour. One of their occupations is to cut dry wood from the forests and to sell the same. By the present legislation they are to be deprived of even this precarious mode of earning livelihood. For even though they work hard at great risk to their lives they have to live upon only one-fourth the quantity of nourishing food which is necessary for man. Three-fourths of the substances they eat consist of simple vegetables and roots. Yet such a wretched class of people will be deprived of an occupation and will have besides to pay for their fuel which from time immemorial and for ages past they have been obtaining free of payment by the labour of their own hands.

10. That your Memorialists submit that the inhabitants of several of the villages of this country have very limited areas of rice lands. They principally live by cultivating forest and mountain lands called *varkas* lands. The same *varkas* lands can be cultivated for three years only in succession. *Nágli*, *vari*, and *harik* are the crops they yield in successive years. But after that period, these lands require to be left fallow for five years. During this period other lands are required to be looked for and cultivated. But if forests are reserved in their neighbourhood and the people are prevented from having access to the lands therein, they will be deprived of the means of earning their livelihood and will be altogether starved.

11. That your Memorialists humbly submit that the people of this country are mostly an agricultural people and have therefore to pay the assessment on their lands. Besides these they have to pay other taxes—such as Stamp fees, Registration fees, Court fees and the Salt and A'bkári taxes. If besides these taxes they be compelled to pay fees for bringing their fuel, for their brushwood and twig-cuttings for burning their land with, and for the branches of thorny trees required for hedges to their fields and gardens, they will be unable to bear this additional taxation.

12. That your Memorialists therefore humbly pray that Your Excellency in Council will be pleased to forbear from passing this new enactment about forests, and allow the people of this country to enjoy the liberties and rights in regard to the use and enjoyment of the forests which they have enjoyed from time immemorial and which were confirmed to them at the introduction of the Revenue Survey: that is to say, they humbly be allowed to cut trees for fuel and building purposes and for agricultural and horticultural purposes from the surveyed forests without any payment—excepting, of course, the trees reserved to itself by the Government—namely, teakwood and *sisu* trees, &c.

13. That your Memorialists fully share in the sentiments and views expressed in the petition of the Bombay Association against the Forest Bill and beg to adopt the same as an appendix to this their humble Memorial.

And Your Petitioners as in duty bound will ever pray.

(Appendix to the Memorial of the Inhabitants of the Collectorate of Kolába.)

To

His Excellency the Right Honorable
EDWARD ROBERT LYTTON, BULWER LYTTON,
BARON LYTTON, G.M.S.I.,
Viceroy and Governor General of India,
Calcutta.

The Humble Memorial of the Managing Committee of the Bombay Association.

Most Respectfully Sheweth,

1. That your Memorialists have perused with much concern the "Indian Forest Bill" (No. 1 of 1877) introduced into your Excellency's Council for making Laws and Regulations on the 31st January 1877, and published for the first time in the *Gazette of India* dated 3rd February 1877.

2. The object of the Bill is stated to be to guard against the annual loss of several lacs of rupees which is occasioned by the want of legal power to control timber in transit by requiring it to be covered by a pass, and to levy duty on foreign timber, and also to provide a regular machinery for enquiring and adjudicating upon private rights in forests.

3. With respect to the first portion of this statement, your Memorialists beg to remark that the present law (namely, Act VII. of 1865) does make sufficient provision for what is here indicated. It is true that the Act of 1865 has not been extended to this Presidency under Section 18 of that law; but your Memorialists submit that if the necessity of preserving Government forests has now arisen, the proper course for the Local Government of this Presidency would be to extend the operation of that Act to this Presidency, subject to such rules as may be deemed essential to adapt it to the peculiarities, if any, of this part of the country. Instead of this, the Bombay Government, it is asserted, has represented to the Supreme Legislature at Calcutta the necessity of imperial legislation in respect of forests in this Presidency. Your Memorialists are at a loss to understand why this should be so.

4. With respect to the second object of the Bill, as given in the statement of objects and reasons, viz., to provide a regular machinery for enquiry and adjudicating upon private rights in forests, your Memorialists deprecate the tendency which has of late been frequently observed in the Supreme Legislative Council of curtailing the jurisdiction of the Civil Courts where the rights of Government come into question as though Council had no faith in these Courts. Your Memorialists take this opportunity of emphatically remarking that Civil Courts carry the sympathy and confidence of the people who regard them as some safeguard against the encroachments of overzealous executive officers. Accordingly, in the absence of any thing to show how Civil Courts are incompetent to adjudicate on forest-rights, the introduction of the new machinery contemplated by this Bill is in this Presidency viewed by the people with distrust and suspicion.

5. It will thus appear that the statement of objects and reasons puts forth no grounds that justify the introduction of the present Forest Bill at all. The hon'ble mover of this Bill has indeed attempted in the course of the discussion in Council on the 24th January 1877, to adduce one more ground in support of this Bill, viz., that "in Bombay the absence "of a Forest law was a special difficulty, because the Government forests there were "interlaced with important private forests and private lands of different tenures, and with "small native states, so that it was a matter of extreme difficulty to prevent Government "forests being pillaged and from this cause there was a loss in the forest revenue of several "lacs of rupees annually." But with respect to this, your Memorialists submit that the alleged stealing in Government forests, if it at all exists, can be adequately punished under the Penal Code, and that special legislation on the subject is unnecessary if not mischievous.

6. Your Memorialists next beg to observe that the title of the Bill, viz., a "Bill to amend the law relating to the management and preservation of Government forests to the transit of forest produce and to the duty leviable on timber," is a mere misnomer, inasmuch as, so far as the Government forests are concerned (and it is these alone which the Bill professedly seeks to conserve), the present Bill confers no new power or right which the executive Government does not now possess either under the general law or under the present Forest Act of 1865. An inspection of the Bill in its details, notably Chapter V., clearly shows that its scope is far different from what it is declared to be in the abovementioned title. Your Memorialists think the Bill was very properly characterized by the Hon'ble Member for Madrás in the Supreme Legislative Council, Mr. Dalyell, as one seeking "to define, to regulate, to commute and to extinguish all customary forest rights." (See his speech on the 31st January 1877.)

7. Your Memorialists now beg to submit their remarks on the Bill in detail, and note some of the most objectionable portions of it.

8. Your Memorialists object to the whole of Chapter II. on the following grounds.

I. The power assumed by Government under section 3 is too wide, and enables it to declare any waste land in which Government has some right, however trivial, into a Reserved forest, although the absolute proprietary right in that land may be vested in private individuals. Supposing this assumed right is very reasonably exercised so as to affect only those forests which absolutely belong to Government, it will be observed that Government forests are not contiguous to each other and that therefore the Reserved forests will be in several patches separated by large properties of individuals. The mischief that will result from the wild beasts residing in such forests to the neighbouring population entirely disarmed by Arms Act and therefore left with no means of protection in their hands will be very great as past experience clearly shows.

II. Sections 5 to 8 provide that whenever Government desire to constitute a Reserved forest, it shall declare its intention by a notification in the Official Gazette and a proclamation in the neighbouring district, calling upon persons claiming any right in the same to come forward with their claims within not more than three months. Section 8 provides that if within the appointed time no claim is urged all rights "shall be deemed to be extinguished" unless there are circumstances to excuse delay. A more summary disposal of the private rights of individuals could not have been made. The hardship of this provision will more fully appear when the fact that the owners of forest rights are often illiterate and poor is taken into account. A like attempt was made in 1851 in one of the districts of this Presidency to extinguish by a Government notification a right of proprietorship that had been acquired under a grant, and been uninterruptedly enjoyed for more than twenty-eight years. But the proceeding was in the end declared to be illegal and void. (8 Bombay High Court Reports A.C. J.P.I.)

III. Sections 9 to 16 entrust the adjudication of private rights to a tribunal that is independent of salutary check of the regular procedure observed in Civil Courts. There is indeed an appeal allowed; but that is to a Revenue Officer, and your Memorialists humbly submit the experience of the public in regard to the manner in which their rights in land are often handled by some of the more zealous revenue authorities has not been such as to inspire confidence.

IV. Section 22 again unnecessarily and unjustifiably depreciates the value of private property by obstructing their alienability.

V. The penal provision in Section 24 is so wide that it will include within its scope even those who under Section 95 of the Indian Penal Code would not have been punished as having caused a harm too slight to be deemed an offence (*vide* V. B. H. C. R. P., 35.) It is also noteworthy that the penal sections of this bill unlike those of the Penal Code render certain acts, offences, irrespective of intention or knowledge of the probable consequences on the part of the doer.

9. Your Memorialists next come to Chapter V. which they would venture to submit, seems to be the most objectionable of all. Section 33 empowers the Government to prohibit private individuals from breaking up their own land for cultivation or clearing of the growth in their own forests, if such prohibition should be thought necessary for public purposes enumerated therein. The range covered by those purposes is so wide that it may well disturb the feeling of security of property which Her Majesty's subjects now enjoy, and may justly put them in constant dread of having their rights and properties interfered with. In case any person be unwilling to comply with the terms of the prohibition made under the just-named section, Section 34 empowers Government to take under its control the lands or forests of such person subject to the payment of the net profits. The protection intended to be conveyed by this proviso will, your Memorialists submit, be but a poor consolation to the persons obstructed in the enjoyment of their legitimate rights. Leaving alone the wholesome feeling of proprietary possession and responsibility that shall result from leaving the cultivation of forests in the hands of their owners, the notoriously expensive agency of Government officials as compared with private management will in itself most prejudicially affect the value of property to a fearful extent. Your memorialists beg to add that no inconsiderable portion of the land in this Presidency is owned and enjoyed by private landlords who owe their rights and privileges either to the grants of previous Governments, or settlement effected under the *regime* of the East India Company, why private property of this description should be arbitrarily interfered with as this Chapter seeks to do and that for benefits as best hypothetical, it is impossible to conceive. No ancient law reserved to Government power over forests, growing on private lands, and it was in obedience to this principle that Act VII of 1865 expressly saved the existing rights of individuals or communities in respect of forests. Your Memorialists are unable to see why that salutary provision should not be set aside.

10. The provisions contained in the several clauses of Section 38 will impose so great a restriction on trade as to cripple it in a considerable degree. The only justification for the exercise of the vast powers in regulating the transit of forest produce, contained in this

chapter, is the alleged annual loss of income from forests which Government is entitled to. Granting that such a state of things exists, it is impossible, your Memorialists submit, to consider it just for Government to seek to preserve its income at the expense of private interests, instead of trying to be so by increasing the efficiency of its own Forest Department. Your Memorialists beg again to draw your Excellency's attention to the amount of annoyance and vexation to which the clauses (*b*), (*c*) and (*d*) of Section 38 will subject the owners of private forests, and traders in forest produce. The immunity from payment of damages provided for by Section 40 in the case of loss of timber or other forest produce belonging to private individuals, and brought to Government depôt, will practically remove all check on the arbitrary conduct of Forest officers acting under the rules framed under the said clauses of Section 38.

11. Your Memorialists submit that in a matter affecting vested proprietary interests all general rules and regulations ought to be incorporated into the body of the enactment, and should not be left to be made and altered, from time to time, by the executive officers of Government; for if made by the executive, they are not subjected to outside criticism and publicity, and debated in open Council.

12. On these grounds your memorialists pray that your Excellency in Council will be pleased to throw out the Bill entirely. It is alleged that this Bill far from conferring any power which Government do not possess under the existing laws is "a great deal more favourable to the person whose rights were being enquired into than the Land Acquisition Act" (No. X. of 1870) under which Government have power to commute private rights of individuals in land. Your Memorialists submit that stringent as the provisions of the said Act are, it does not deal such a summary blow at private property as the present Bill seeks to do. Your Memorialists find that during the last six years since the passing of the said Act, the general nature of its provisions in respect of appropriating private land for public purposes, has seldom been availed of for any such purpose as the present Bill seeks to serve. Your Memorialists are therefore inclined to regard that Act as practically less mischievous than the present Bill.

13. In conclusion your Memorialists pray that for the considerations detailed in the foregoing paragraphs, your Excellency in Council be pleased to decline to sanction any fresh legislation on the subject of forests, at all events in this Presidency.

And your Memorialists as in duty bound will ever pray.

BOMBAY ASSOCIATION ROOMS,
SASSOON BUILDINGS,

*No. 18, Marine Street, Fort,*
*Bombay, November 1877.*

DINSHAW MANECKJEE PETIT,
President.

YASHAVANT VASUDEV ATHALYE,
Secretary.

## REPORT OF THE FOREST CONFERENCE ASSEMBLED AT THÁNA ON 16TH, 17TH, 18TH, AND 19TH OCTOBER, 1882.

The Committee are unanimously of opinion that throughout the Thána Collectorate all hill ranges and large forest blocks should be constituted Reserved Forest, and not be divided into Reserved and Protected forests as at present. Their reasons for the above opinion are—

1. They are satisfied that the system is a mistake under which tracts of forests are set apart for the use of local inhabitants, while other tracts are closed against them. The effect of such a system is to cause an excessive drain on a necessarily limited source of supply, such as, for instance, during the late touring season came under the notice of the District Forest Officer, who found the people grubbing up even the roots of trees in Protected forests for firewood. The people are thus driven to demand the expansion of their privileges, while owing to the physical features of the country and the naturally varied and unequal distribution of forest vegetation, of grazing grounds, and so on, it is practically impossible so to divide the forests as to give room for the exercise of all the privileges that are required, without the introduction of such complicated boundary lines as would render the conservation of the reserved tracts a matter of very great difficulty, while the fact of the two descriptions of forests existing in proximity to each other offers constant temptation to the people to ignore the limits assigned to them and thereby facilitates the commission of forest offences.

2. The Committee believe that the wants of the people can be better met when the entire area of the more important forests is worked under one system and properly conserved and blocked.

3. The Notification of March 1879, dividing the forests into Protected and Reserved, was based on lists submitted by the local officers who appear to have been under the impression that it was impossible for Government to grant permissive privileges within the limits of a Reserved forest, and that consequently it was necessary for the sake of the people that Protected forests should exist. It is unnecessary to observe that this is a mistaken idea. The lists submitted to Government were accordingly based chiefly on the distribution made by officers of the Revenue Survey, under Section 32 of Act I. of 1865, of forest lands into *gurcharan, gáonche rán, gáon bhág, sarkári rán,* &c., which distribution was made on no fixed principles nor with any regard to the science of forestry. In a comparatively small portion of the Collectorate demarcations had been effected by Assistant Collectors and Forest Officers and by a Special Officer. These demarcations, while being of a more satisfactory nature than those effected by the officers of the Revenue Survey, were however, necessarily based upon the principles regarding the error of which the Committee have above expressed their conviction.

4. The Committee believe also that when Government made the distinction between Reserved and Protected forests in issuing the notification of March 1879, they were under the impression that the public possibly had legal rights of which they could claim the exercise in the forest area. As a matter of fact no such rights, except those of an incorporeal nature, have been discovered by the Forest Settlement Officer to exist in *gurcharan, ránrakshan, gáon bhág,* or other description of forests.

5. That the distribution of forest into Reserved and Protected was not intended to be final was pointed out by Mr. Jervoise at the time of submitting the lists. He showed how whenever there was a doubt as to the propriety, according to then existing notions, of entering a forest as Reserved, the whole area was classed as Protected with a view to the future settlement of the question. Government understood the question in the same light and, in Resolution No. 1125 of 23rd February 1881, laid down that the lists were clearly not to be considered as final, and that it would doubtless be found expedient to convert into Reserved forests some of the lands that had been notified as Protected forest, while, notably in the case of Protected forest, much of the notified area should be speedily deforested.

6. The Committee understand from the Forest Settlement Officer that a large portion of the detached numbers of small extent which have been notified as Protected forest will be recommended to be thrown out of the forest area. These, as far as the Forest Department is concerned, will become available to the people for the unrestricted exercise of their customary privileges, such as grazing, cutting grass and brushwood for *ráb,* &c., &c.

7. With regard to lands that should be retained as Protected forests the Committee are of opinion that only such detached hill numbers, of sufficient area, as may be so situated as to come conveniently within the limits of a forest beat should be so retained.

8. With regard to the claims to rights or privileges submitted by the people of the district, the Committee have to observe that proclamations under Section 6 of the Forest Act were issued by the Forest Settlement Officer, Mr. Campbell, as also notices regarding Protected forests, during the close of the year 1879 and the commencement of 1880. The result of these proclamations and notices has been the submission of numerous petitions from

every part of the district. In these petitions the public sentiment on the question is clearly and copiously set forth. The general tenor of the petitions throughout the district is the same. The people claim, sometimes as individuals, sometimes as members of a village community, rights based upon their ancient *vahivát*. These rights may be comprised under the following heads:—

1. Grazing.
2. *Málki* trees.
3. Material for *rán*.
4. Firewood.
5. Material for domestic and agricultural purposes.

9. The Committee propose to discuss briefly and in the above order the subjects of these different heads, but in the first place will refer to the legal position of Government in respect of the rights that are claimed. Mr. Naylor's memorandum, circulated with Government Resolution No. 2493 of 4th May 1881, contains the principal points necessary for establishing the right of Government as adverse and superior to any claimed by the people.

In the first place the lands that are comprised in the forest area are, indisputably, waste lands, and as such belong to Government.

In the next place it follows that the rights claimed by the people being of the nature of a profit *a prendre* in soil belonging to another cannot be claimed by custom, however ancient, uniform and clear the exercise of that custom may have been. Also so far as the rights claimed are unlimited they cannot be claimed by prescription.

The question whether a limited profit *a prendre* can be claimed by prescription is not decided in Mr. Naylor's memorandum, nor, apparently, is there a ruling case upon the point. But in the opinion of the Honorable the Advocate General, quoted in Government Resolution No. 6550, of 3rd November 1881, the following words occur, "Nor can such a "claim be made by any individual on the ground of uninterrupted enjoyment of the produce "of the trees for many years, *i.e.* by prescription, for prescription runs not against the "Crown."

The Committee consider that they are at liberty to adopt this principle as one that Government are prepared to establish, and it therefore follows that any claim to the exercise of a right in the forest can only be founded upon a special grant or recognition made by Government; this part of the subject can best be dealt with when discussing the various rights under their separate heads.

10. As to grazing, so far as the public rights are concerned, the circumstances of the Thána *gurcharan* are precisely similar to those of the Poona *gáirán*, with regard to which Government in Resolution No. 4919 of 15th September 1879 have decided that grazing is a privilege and not a right. The soil has always been regarded as the property of Government, portions of it having been from time to time disposed of by the Collector when required for the extension of cultivation, and Government being always made the defendant in cases where portions of the *gurcharan* have been claimed by individuals as their occupancy land.

Throughout a large portion of the district the limits of the *gurcharan* are arbitrary lines marked on the maps of the Revenue Survey, the land itself consisting of pure forest undistinguishable from the surrounding jungles. In such cases the character of the land is generally indicated in the Survey Registers by the addition of the words *rán rakshan*, intimating that the preservation of the forest was a condition on which the privilege of grazing was to be allowed.

The Committee thoroughly appreciate the desire of Government expressed in paragraph 8 of the Resolution above referred to, that a fair amount of free grazing should be allowed to the people: but they agree entirely with the remarks recorded in paragraph 2 of Government Resolution $\frac{7608}{31\text{-}10\text{-}82}$ (on Khándesh Administration Report) regarding the harmful effects of too free an access to pasture. Those remarks are equally applicable to the Thána *gurcharan* grounds, and the Committee consider that the wishes of Government will be met and that ample provisions for grazing will be made by the following means. Under the system suggested in paragraph 2 of this report, the forests will be divided into blocks for working and improvement purposes, each block being sub-divided into compartments which will be worked in rotation and subjected in turn to temporary closure; these will be so arranged that not more than one quarter of any block will be closed at any one time. Free grazing in the unclosed portion of a block will be allowed for the cattle of each rayat who holds *kharif* land in a village in which any portion of the entire block lies. The privilege would be limited to cattle used for agricultural and domestic purposes, and the Committee are of opinion that, as a general rule, the following would be a fair scale to adopt in order to determine the number of cattle in respect of which the privilege may be exercised, *viz*:—

For every 4 acres of *kharif* land contained in one holding, 1 pair of bullocks or buffaloes, 1 cow or she-buffalo, and 2 calves.

The scale would be liable to variation in villages where the area of Protected forest, or of *gurcharan* lands not included in forest, is of sufficient extent to justify the restriction of the exercise of the privilege in Reserved forest limits. Rayats would receive passes showing the number of cattle they are entitled to free grazing for.

Cattle bred or kept for profit only, and excess cattle, would be admitted to the forest only on the payment of fixed fees, and at the discretion of the forest officers, and the same would be the case with cattle of villages that do not form portion of a forest block.

11. With regard to claims to *málki* trees the Committee have to observe that these generally refer to mango and other fruit-trees, growing in waste lands near a present or former village site. The custom appears to be ancient under which such trees have been planted and preserved by the villagers, who mutually recognise and respect the right of particular individuals to take the produce of particular trees, in which it has not hitherto been the practice for Government to claim any share. In the Sálsette *táluka*, when claims to such trees were instituted in 1863-64, the right of Government as proprietor of the trees was asserted by the imposition of a nominal annual cess of 1 anna per tree, the payment of which entitled the payer to enjoy the produce only of the tree. In other *tálukás*, notably in Panvel, Kalyán and Murbád, no such step was taken, while either through misunderstanding or fraud on the part of the *talátis*, such trees have frequently been entered in Village Form No. I. as the property of individuals. No authority for such a step is traceable and the error appears to have been simultaneous with the preparation, under orders issued after the promulgation of Mr. Ellis' Rules in 1863, of registers of similar trees existing in occupancy lands. Suits in the District Court have occasionally been instituted for the purpose of establishing a right in such trees, and have failed, the plaintiffs not being able to prove proprietary right in the soil. In a few instances the Revenue Officers have conceded similar claims and the lands on which the trees stand have been formed into separate survey numbers, assessed and given up to petitioners.

12. The Forest Settlement Officer informs the Committee that in no instance has any such claim the base of a specific grant made by Government. Government have from time to time issued orders intended to encourage the planting of trees. A proclamation of 1847 went so far as to guarantee to village communities in aggregate the property in trees planted by the villagers jointly in common ground, and directed that the property should be secured to the villagers jointly by a written deed. But no claim under that proclamation has been made and no record exists of its having been taken advantage of, or of the contemplated deed having been granted to any village, while the average age of the trees that are the subject of these claims is anterior to the date of that proclamation. The Committee are not aware of any other order of Government divesting Government of the property in trees planted in Government waste lands. The only grounds for these claims must therefore be sought in custom or prescription or in proprietary right in the soil, which grounds have already been indicated to be untenable. Whatever policy may be pursued in future with regard to trees in waste lands not included in forests, the Committee are of opinion that the terms of Government Resolution No. 6550 of 3rd November 1881 are here applicable, *viz.*, "The enjoyment of the produce of trees in Government waste land by custom or under a "lax system of administration does not amount to a recognition by Government of a right "which the Forest Department must respect."

13. On the subject of material for *ráb* the Committee observe that in the earliest days of the introduction of the Revenue Survey into the Thána district this subject was very fully discussed in correspondence that was laid before Government and led to the issue of Government Resolution No. 3370 of 2nd September 1856, which very clearly and forcibly laid down the views of Government on the subject. These were to the effect that it appeared probable that the practice of *ráb* manure, not prevailing elsewhere, and demanding a wasteful appropriation of hill land for the provision of material, was due as much to the fact that the privilege was unlimited, and untaxed, as to necessity. That sound principles demanded the taxation of the hill lands whether used for cultivation, or only for *ráb* or pasture. And that in order to obviate encroachments, disputes, abuses, and uncertainties, it was necessary to define some limits, to adopt some system of definition, and to subject *varkas* holdings to a fixed annual rental.

These being the orders of Government, the survey and settlement of the district was proceeded with. It had nearly been completed in 1863 when the Forest Committee of that year, (the Survey Commissioner, Colonel Francis himself being a member,) reported to Government that the question of *ráb* had been disposed of, the lands used for the purpose having all been assessed and handed over to occupants.

It would be impossible, without entering into tedious detail, to describe adequately the course that has been pursued with regard to this matter between 1863 and the present time, with the orders and counter-orders, the various opinions of officers, the agitation on the part of people.

The points that appear to be established with certainty are—

1. At the settlement sufficient precaution was not taken to ensure the equal distribution of lands assessed as sources of *ráb* supply. Probably about one-third of the

land-holders of the district either hold no such land at all or hold it in insufficient proportion to their rice lands.

2. Except in the *tálukás* coming under the Dahánu and Kolvan Settlements no steps were taken to bind the rayats to utilise the produce of these lands for legitimate purposes only. The lands were placed on the same footing as ordinary occupancy lands; unrestricted rights in unreserved trees were given over, with the result that the lands have been largely denuded of *ráb* material, which has been parted with by the rayats for private profit.

3. In attempting to remedy the state of things thus brought about and in conceding to the people the privilege of obtaining material in *gurcharan* and unreserved forest, the policy declared in Government Resolution No. 3370 of 2nd September 1856, already referred to, has been entirely lost sight of, and the anomaly has been created of one and the same privilege being enjoyed free by one person while it is taxed in the case of another.

14. The Committee are of opinion that the various circular orders that have been issued in the district giving the rayats the privilege of cutting *táhál* or *shindád* for *ráb* in *gurcharan* and *gáon bhág* forest without payment must be considered to have been at variance with the expressed wishes and policy of Government. For this reason and for the additional reasons stated below, they recommend that the privilege be now stopped elsewhere than in assessed *varkas* lands. These reasons are—

1. *Táhál* or *shindád* is not absolutely necessary as manure for rice nurseries, and in many parts of the district is never used for the purpose. Where both are available, cow-dung *rábbing* is preferred by the better and more industrious classes of cultivators.

2. The impossibility of conserving forests where *táhál* cutting is allowed.

3. The direct incentive given to those cultivators who hold *varkas* land to cut down and sell to the dealer the trees on the land and fall back on the free supply of *táhál* obtainable from the Government jungles.

4. The assessment of the privilege will induce the holders of *varkas* to utilise the land for its proper purposes, and will give a local marketable value to such excess supply of material as they may be able to produce.

15. The Committee are firmly convinced of the impossibility, at this date, of re-arranging the distribution of *varkas* lands, or of supplementing the present inequitable partition of them by assigning additional ground for the amendment of deficiencies. They unanimously endorse and recommend the general adoption throughout the district of the policy laid down in paragraph 5 of Government Resolution No. 3709 of 8th June 1882, which runs as follows:—

"To supplement the supply of *ráb* from *varkas* lands, the cultivators should be permitted to collect, free of charge, grass and dead leaves in the Government reserved forests. The exercise of this privilege under due supervision would not only not prove injurious to the forests, but would be of benefit in tending to protect the jungle from the destructive effects of forest fires. The Forest Department should also cut materials for *ráb* in the reserved forests departmentally, and sell them by public auction or at a fixed moderate price at the season when the preparations for cultivation are being made."

16. If the forests are reserved and treated on the principle recommended by the Committee, the Forest Department working blocks on the rotation system, there will always be one compartment in each block under the axe, from which *ráb* materials will be procurable in sufficient quantities for all probable wants. The Committee think it their duty to point out to Government the serious injury that has ensued from the passing of Government Resolution No. 2206 of 26th April 1880, forbidding the application of the penal clauses of the Forest Act until the rights of Government shall have been inquired into and settled. The tendency has been to allow to all the continuance of unrestricted recourse to the forest for the supply of their wants, and for a multitude who had put forward no formal claims, and have no foundation for doing so, to step in on the principle of making hay while the sun shines. And the forest subordinates have been powerless to stop them.

17. *Firewood.*—This privilege also has been the subject of much discussion and of various orders. Attempts to regulate it consistently with the protection of the forest had been made prior to the report of the Forest Committee of 1863. In that report it was recommended that tracts of forest should be set apart for the use of the inhabitants of villages containing forest, and that the free use of all but seven kinds of trees, dead-wood and green, should be conceded. This measure has been extensively carried out with the objectionable results referred to in the first paragraph of this report. The right of the residents of villages lying outside forest limits to expect to be allowed free access to the jungles has never been admitted, and as to the attitude assumed by Government in dealing with petitions and repre-

sentations on this as well as on other points connected with this subject, the Committee may refer to the following Resolutions of Government, Nos. 3578/21-10-67, 4395/6-9-71, 1281/13-3-74, 3726/17-7-74, 4097/20-7-75, 4311/30-7-75, and 4570/14-8-75. These, and various other Resolutions, show that with the desire to treat the people in the most liberal spirit, Government have combined the determination to insist on the maintenance of measures necessary, in their opinion, for the successful issue of the system that had been adopted, as alluded to above. As a matter of fact these measures were of much the same nature as those now recommended, and included the rotation working of the village forests, their entire closure when necessary, and the departmental cutting and sale of material to the people of outside villages. The main difference is that this plan of treatment had to be confined to the limited area of the village forests, the position of which in detached blocks, here, there and everywhere, rendered the practical application of these methods of conservancy a hopeless impossibility.

18. In practice little or nothing has hitherto been done either to check the custom usurped by outside villages, of resort to reserves that have been assigned for the use of the inhabitants of forest villages, or to control the habits of members of the wild tribes who collect fuel there and carry it for sale to the large towns and villages and places where a Pándharpesha population exists. The consequence has been the exhaustion of these limited tracts, in which, in many parts of the district, none but the reserved kinds of trees remain; while owing to the orders concerning reservations not having been thoroughly promulgated or understood by the people, it is to be feared that even the reserved trees have not been respected but with the exception of teak have to a great extent disappeared. These abuses have been facilitated by the want, till recently, of a Forest Act, and by the insufficiency of the Forest protective establishment.

19. These considerations alone are strong arguments in favour of the Committee's recommendation that the large forest areas should be worked under one system and not be divided into Reserved and Protected forests. The Committee are very decidedly of opinion that the system under which tracts of forest have been set apart for the use of the people, and under which they have been allowed not only to collect dead wood in those tracts, but also to cut live wood of unreserved kinds of trees, has proved a failure, and has been most injurious to the Government forests. They adopt the principle enunciated by Government in the Resolutions mentioned in paragraph 17, that the free exercise of privileges should be confined to persons resident in forest villages, and they are of opinion that as regards firewood the privilege must for the future be confined to dead and fallen wood and be exercised in the unclosed portion of the forest block to which the village belongs. They defer consideration of the method recommended by them for the supply of outside villages until they have dealt with the next head of claimed rights.

20. Material for domestic and agricultural purposes.

A wide range of objects is included under this head. For the purpose of illustration the Committee select the following extract from a representative petition as showing the extent of privilege in this direction to which the people consider themselves entitled.

"I.—Free use without the necessity of any one's permission of the following forest articles for domestic use :—

"(*a*) Firewood.

"(*b*) *Tokar, bundhi, kárvi,* reed, and *jhita.*

"(*c*) Rafters, *medhi, angrás,* and *vinedas* of common wood, for erecting huts, "sheds, compounds, &c.

"(*d*) Wood useful for boxes, cupboards, carts, and other household articles of "wood.

"(*e*) Leaves, fruits, flowers, pods, and creepers of all kinds, honey and gum.

"II.—Free use without the necessity of any one's permission of the following things "for agricultural use :—

"(*a*) Brushwood and loppings used as *ráb.*

"(*b*) Rafters, *medhi, angra, vinedas,* of common wood for erecting farm huts, sheds, compounds, &c.

"(*c*) Leaves of teak and all other kinds of wood.

"(*d*) Wood for carts, ploughs, *ghansa, ali,* and such implements of husbandry.

"(*e*) Wood for cattle-pens.

"(*f*) Willows, &c., for *mándavs* of creepers and useful for supports to *pánvel* and plantain, &c.

"(*g*) Wood for water-wheel, *mot,* and shed for it.

"(*h*) Firewood for sugarcane and for *charak,* &c.

"III.—Free use with prior permission if necessary of wood required for the purpose of building and repairing dwelling-houses."

21. Rules regulating the grant of timber gratis for works of public utility and for the purposes referred to in the last paragraph were framed by Mr. Ellis, Revenue Commissioner, N. D., and were in force in the Northern Division at the time of the meeting of the Forest Committee of 1863. Those rules contained the following provisions regarding the matter under consideration :—

" *3rdly.*—Houses of agricultural classes paying revenue to Government. Grant to " be made only when the Collector considers the circumstances of the applicant to call " for the grant.

" *4thly.*—Agricultural implements, wells for irrigation, and other agricultural improvements, to be granted on the same grounds as No. 3.

" II.—A grant under Nos. 2 and 3 is not to exceed Rs. 20 in value, and a grant in " other cases is not to exceed Rs. 50, without previous sanction of the Revenue Commis- " sioner.

" III.—The grants are to be made from any collection of timber that may be avail- " able, the cost of felling and carriage from the forest to the depôt being recovered from " the grantees.

" IV.—When no depôt is available, then the applicants will be allowed permits or " passes to cut on their own account such trees as may have been marked for cutting, " the forest establishments being responsible that the privilege is not abused, and that " other trees than those pointed out are not cut."

22. The Committee of 1863 considered that the improved circumstances of the people justified them in recommending the withdrawal of the privilege of free grants, discretion being left to the Collector to deal with extreme cases. Government however approved of the retention in their entirety of Mr. Ellis' Rules (G. R. No. $\frac{1106}{26\text{-}3\text{-}64}$) and in sanctioning the formation of village reserves directed that the 7 kinds of reserved trees already referred to in paragraph 17 of this report were to be made available for the supply on permit of the timber required under those rules ; and that such grants were only to be made when the Collector considered that the circumstances of applicants called for them.

In Resolution No. $\frac{6176}{8\text{-}11\text{-}73}$ Government expressed their concurrence with the Revenue Commissioner in thinking that rayats should be allowed to cut down without permission in 2nd class reserves a few specified kinds of trees requisite for their agricultural purposes. But on consideration of the correspondence elicited by that Resolution, Goverement directed in Resolution $\frac{1281}{12\text{-}3\text{-}74}$ that the cutting of unreserved trees should be restricted to fire-wood only and permitted only to resident rayats ; the same rayats were to be allowed whatever wood they might require for agricultural purposes, and for the repair of their houses, gratuitously, but on condition that the permission of the Forest Department was previously obtained.

On further consideration Government, in Resolution $\frac{3726}{17\text{-}7\text{-}74}$, expressed themselves unable to relax these orders.

23. Government Resolution $\frac{1790}{24\text{-}3\text{-}75}$ contains a summary of previous rulings on the subject of free grants, but does not refer to grants for agricultural purposes. No. $\frac{2334}{21\text{-}4\text{-}75}$ directed that *mámlatdárs* should be entrusted to the full extent contemplated in G. R. No. 1790, *i. e.* to grant wood for any purpose up to the value of Rs. 20. And G. R. $\frac{5612}{4\text{-}10\text{-}75}$ extended the privilege of receiving free grants for houses to members of indigent wild tribes, who were not occupants of lands, but were sub-tenants or relatives of occupants.

24. The report of the Forest Committee of 1875 (signed by Messrs. Ashburner and Pedder) pointed out (in paragraph 20) that the people must have good wood for their agricultural implements and would steal it if they could not get it by fair means. It urged the necessity of establishing depôts for the supply of this material, it being out of the question to continue to allow each rayat to cut for himself, or to expect him on an emergency to march backwards and forwards between the *kacheri* and the forest in search of a permit. The Committee wished Government distinctly to understand that the existing rules for the supply of building wood and wood for agricultural purposes were unworkable.

However, Government determined (Government Resolution $\frac{94}{5\text{-}1\text{-}76}$) that the existing rules must remain in force, and directed (Government Resolution $\frac{130}{6\text{-}1\text{-}76}$) that the number of reserved trees in the northern division should be confined to eight kinds, the order being applicable (Government Resolution $\frac{2224}{7\text{-}4\text{-}76}$) only to the forests that were set apart for the use of the people.

25. The next phase of the matter was that in Resolution $\frac{5191}{11\text{-}8\text{-}75}$, Government requested the Revenue Commissioners to draw up rules for simplifying the procedure in respect to free grants for agricultural purposes. The Commissioners in their turn suggested the necessity of depôts. The question was ventilated and was abandoned " for the present "

in Government Resolution $\frac{5768}{22\text{-}8\text{-}77}$. Consequently Government Resolution $\frac{1281}{12\text{-}3\text{-}74}$ remained in force until Government Resolution $\frac{335}{21\text{-}1\text{-}80}$ cancelled all previous rules relating to free grants and required the Government sanction to be obtained in each instance. The manner in which Government Resolution $\frac{1281}{12\text{-}3\text{-}74}$ has worked in practice so far as agricultural wood has been concerned is that its provisions have been ignored by the people, who have continued to obtain their requirements from the forests without troubling themselves to obtain the permission of the forest officers. The Forest Settlement Officer informs the Committee that the history of the District Forests as traceable on the files, and the result of his inquiries in many villages, show that it is probable that there is hardly a village in the Collectorate that has not been in the habit of obtaining its supply of fuel and of agricultural wood direct from the Government jungles, either by sending its inhabitants in person to fetch it, or by purchasing from itinerant vendors, who have paid nothing to Government. Unless the means of obtaining a ready supply of wood be placed within the reach of the public, it is inevitable that either this destructive and inequitable practice must be allowed to continue, or the public in trying to help themselves will constantly be coming into collision with the Forest officers and a very disagreeable and undesirable state of things will be called into existence.

26. The Committee are very strongly of opinion that the Committee of 1875, and the Commissioners in 1876-77, in proposing the establishment of depôts for the supply of wood required for the agricultural and domestic wants of the people, pointed out the only course that can be taken to ensure the protection of the forest and the convenience of the public. The present Committee would, however, go further in this direction, and would insist on the necessity of establishing depôts not only for the above purposes, but also for the supply of fuel to villages lying outside forest limits. The establishment of such depôts will in fact be the means of carrying out the purport of the orders of Government, already referred to, that the inhabitants of such villages should in future be provided for from cuttings to be made departmentally, and should not be allowed to resort in person to the forests.

27. The Committee have, as directed in paragraph 9 of G. R. $\frac{6619}{25\text{-}9\text{-}82}$ (on Thána Administration Report), considered the question of depôts and are of opinion that a system of depôts should be established under which depôts of the following three kinds, sufficient for the wants and supply of assigned tracts, should as far as possible be combined at the same spots, so as to be under the supervision of one and the same establishment :—

(1) Depôts under Section 41 of the Forest Act.

(2) Depôts for the supply of fuel, bamboos, *kárvi*, leaves, and dead-wood of all descriptions, to be worked by contract.

(3) Depôts for the supply of the domestic and agricultural wants of the people.

By the combination of depôts of each kind at one spot the expense of a large establishment will be saved to Government, while the services of the establishment which it will be compulsory on Government to maintain at depôts established under Section 41 of the Forest Act will be utilised to the fullest extent. The Committee think that the establishment necessary for each of the proposed depôts will be 1 Depôt Forest Officer on Rs. 10, 12 or 15, and one peon on Rs. 6.

28. The Committee have selected sites for the proposed depôts, situated generally at the principal Railway Stations and bunders, and on the lines of the chief timber routes. In some cases where the establishment of depôts under Section 41 of the Forest Act is unnecessary, depôts for the supply of domestic and agricultural wants will be managed by the present establishment, the sites chosen being the head-quarter stations of Round Guards.

Appendix A. A list of the proposed depôts is appended to this report. The Committee consider that the framing of rules for their management is best left to departmental discretion, but they would insist upon the observance of the following principles :—

1. The fuel contractor to be bound to maintain at each depôt a supply of material sufficient for the local requirements of the tract to which the depôt is assigned, and to supply local wants at prices not exceeding by more than 50 per cent. the rates of his tender to Government.

2. The fuel to be supplied unrestrictedly to the public. Wood for building and agricultural implements not to be had without a pass from the *mámlatdár*.

Appendices C. and D. 29. A form of notice calling for tenders and a copy of the license which it is proposed to issue to contractors are attached to this report.

30. The Committee believe that when provision as above described shall have been made for supplying the wants of the people, it will be possible to work the Forest Act and the rules passed under it without causing any material hardship. The privilege of entry into the unclosed portions of the Reserved forest will be continued to the residents of forest villages for the purpose of collecting their own supplies of dead firewood, and of leaves for

the construction of corn-bins and for the thatching of their houses. Of the latter important privilege the Committee do not propose to deprive them; only the exercise of it must be confined to harvest time, when the leaves are most in request, and are in the fittest condition for preparation for the purposes required, while their gathering at that period causes the least physical harm to the trees. Leaves for the provision of outside villages will be stored at the depôts for sale. Nor do the Committee propose to interfere with such a harmless privilege as the collection of edible fruits and roots; this is often of vital importance to the indigent classes, and to stop it would be a harsh and cruel measure.

31. With regard to the forests which will be classed as Protected, the Committee do not propose to introduce any very stringent rules. The main object of their being retained under the control of the Forest Department will be the preservation in them of the reserved kinds of trees and the reboisement where possible of denuded areas. The Committee are of opinion that rules which have been drawn up by the Collector under Section 44 of the Land Revenue Code for the regulation of privileges in waste lands that are not included in Reserved, Protected or Village forest, are well suited for application as rules sanctioned by Government under Section 31 of the Forest Act. A copy of those rules is appended to this report, and the Committee respectfully suggest that *mutatis mutandis*, they may receive the sanction of Government as rules for the management of Protected forests in the Thána District. But the Committee are of opinion that no privilege should be allowed to be exercised between the 1st June and the 1st November, during which time the forests require absolute rest, and are, not withstanding, most liable to depredations.

Appendix B.

32. The Committee consider that it is of importance that a statement of the rights enjoyed by rayats in trees in their occupancy lands should be laid before Government simultaneously with this report. Such a statement has been drawn up by the Forest Settlement Officer, and will be submitted to Government by the Collector.

33. In bringing this portion of their report to a close, the Committee beg to express an opinion that early steps should be taken to obtain possession of occupied lands, lying within the limits of the proposed Reserved forest, either by means of exchange or the tender of compensation, and that Government should empower the Collector to place certain sums at the disposal of the Assistant Collectors for this purpose. Also that rules similar to those already in force in Poona and Sátára should be applied to Thána to this end.

34. The Committee are also of opinion that the special agreements entered into in the early days of forest conservancy with *vatandárs, isáfatdárs, inámdárs,* or villagers, for the protection of forests on condition of receiving a share of the produce when Government cuttings take place, should not be renewed—as suggested in G. R. No. 3920 of 22nd October 1868—with the heirs of deceased *kabuláyatdárs.* Experience has shown that the duty of protection is very inefficiently performed under the system. The *isáfatdárs,* &c., take little or no trouble in the matter, while in some cases, as in that of the Mánivli village, those who gave an agreement have been found stealing the timber that they were bound to protect, and were convicted of the offence in a criminal court. These *rakhváldárs* have no professional skill in forestry and keep up no establishment for the protection of the forest. On the other hand Government have now a large staff of forest subordinates quite capable of performing the duty, and the reason of the creation of such agreements has disappeared.

35. A list of these agreements as far as they are known to have been taken is given below. Those marked * are executed in the name of the "Company Sarkár." The rest were entered into with Dr. Gibson as Conservator of Forests:—

*Inám villages.*

Khándas... ... ... ...(1850)
Kotimbe... ... .. ...(1854)

*Vatan villages.*

Wadap ... ... ... ...(1854)

*Isáfat villages.*

Másle ... ... ... ...(1850)
Adivli... ... ... ...(1854)
Páthraj ... ... ...( „ )
Kurunj ... ... ...( „ )
Silar ... ... ...( „ )

*Government villages.*

I.—Forest lands.

Mánivli ... ... ...(1851)
† Mándavne ... ... .. (1854)
* Takyáchi Wádi (Bárwai) ...(1849)

II.—Occupied lands.

†* Kondivde ... ... ...(1849)
†* Pelhár... ... ... ...(1855)

In the cases of the *kabuláyats* marked † the share given for protection is one-fourth: in the other cases it is one-third.

Appendices E, F, G and H.

36. Lists, in manuscript, drawn up by the Forest Settlement and Demarcation Officer, are attached to this report, showing the following details:—

1. Lands already notified which it is proposed to disafforest.

2. Lands which it is proposed to constitute Reserved forest in addition to the lands already notified and retained as such.

3. Lands which it is proposed to constitute Protected forest in addition to the lands already notified and retained as such.

4. Lands already notified which it is proposed to retain as notified.

The lists Nos. 1, 2 and 3 are prepared for publication in the *Government Gazette* should Government see fit to order such publication.

37. The Committee will now proceed to record their opinion upon the very important matter of the establishment which they consider necessary for the maintenance of efficient check and control. Looking to the accessibility of the Bombay and above-ghát markets, to the great value of the Thána forests, to the plunder to which they have been and are subjected at the instigation of the legion of wood dealers that exists within the district, to the havoc worked by *rán* cutters, to the reckless propensities of the rayat in general and of the members of wild tribes in particular, the Committee are strongly of opinion that the forest protective establishment should now be maintained upon a scale sufficient to secure the following results:—

(1). The thorough protection of the valuable tree properties of the State.

(2). The working of the forests to their highest possible yield.

(3). The enhancement of their productive powers.

38. It should be remembered in this connection that the Government forests which are constituted under the Forest Act are not the only properties under the protective care of the Forest Department, but that in addition to them are—

(*a*). Forests in alienated villages the rights in which have recently formed the subject of careful inquiry, with the result that in the cases of several villages it has been discovered that the *inámdárs* have no proprietary rights over the forests and trees, although they had for years usurped and exercised such rights. In order that these misappropriations of Government property may be stopped, it is necessary for effective watch to be maintained over every such forest.

(*b*). Forests in alienated villages, rights over which belong to the *inámdárs* subject to the lien of Government on a certain specified share of the net profits derived therefrom.

(*c*). Trees in occupied lands the rights over which were reserved at the time of the Survey Settlement.

39. The Committee are in the first place of opinion that the Collectorate should be divided into two Forest Districts with a European officer of the higher grade in charge of each. The necessity for this step is imperative to ensure the efficient working of the new system of conservancy, and of the new measures for the supply of the people's wants, which the Committee have recommended and hope to see adopted by Government. The most convenient distribution of *tálukás* into two separate charges will be as follows:—

I.—N.-W. Division.

1. Umbargaon *peta.*
2. Dahánu *táluka.*
3. Máhim do.
4. Váda *táluka.*
5. Bassein do.
6. Sálsette do.
7. Bhivandi.

II.—S.-E. Division.

1. Mokháda *peta.*
2. Sháhápur *táluka.*
3. Kinavli *peta.*
4. Murbád *táluká.*
5. Kalyán *táluka.*
6. Karjat do.
7. Khálápur *petha.*
8. Panvel and Uran.

The above names represent the ranges into which the forests of the Collectorate are in the first place divided for executive purposes. With the exception of the Kinavli *peta* they correspond with the revenue sub-divisions of the Collectorate. The ranges, 15 in number, are each under the charge of a Range Forest Officer.

40. Before proceeding to the consideration of the subordinate establishment the Committee desire to record their conviction to be that the employment of a temporary establishment is a mistaken policy. Good and honest work is not to be expected of the class of men whom it is necessary to enlist, when they have only a transitory interest in what is given to them to do. No incentives to industry can be held out to them, they have no stake to lose by neglect of duty, and that most desirable quality, *esprit de corps*, finds no place in their breasts. The Committee think that the creation of a permanent establishment with everything to lose and nothing to gain by the avoidance of the proper fulfilment of their duties is what is wanted to secure the preservation of the important interests involved in the protection of the State forests. The establishment that is hereinafter recommended for entertainment must therefore be understood to be a permanent one solely.

41. The Ranges are for executive purposes divided into Rounds. Each of the latter is placed in charge of an officer who is called a Round Guard. In view of the attainment of the following objects, *viz*:—

(1). The formation of the forests into blocks and compartments for the purposes of working and improvement on a system of rotation.

(2). The maintenance of agricultural depôts for the supply of wood to the rayats for domestic and agricultural purposes.

(3). The establishment of depôts under Section 41 of the Forest Act for the control of timber in transit.

(4). The establishment of fuel depôts—it is very necessary that the territorial dimensions of a Round shall not be larger than can be properly managed by one officer. If the Round be unduly extended, supervision over protection will not be so close and searching as is required, the treatment of forest offences will not be prompt, and the general working of the forests will not be carefully conducted. These points are all of great importance, and the Committee giving full consideration to them are of opinion that the number of Rounds in the several Ranges should be as under:—

I.—N.-W. Tha'na.

| | | |
|---|---|---|
| 1. | Umbargaon ... ... ... ... ... ... ... | 4 |
| 2. | Dahánu ... ... ... ... ... ... ... | 11 |
| 3. | Máhim ... ... ... ... ... ... ... | 10 |
| 4. | Váda ... ... ... ... ... ... ... | 5 |
| 5. | Bassein ... ... ... ... ... ... ... | 7 |
| 6. | Sálsette ... ... ... ... ... ... ... | 4 |
| 7. | Bhivandi ... ... ... ... ... ... ... | 4 |
| | Total ... | 45 |

II.—S.-E. Tha'na.

| | | |
|---|---|---|
| 1. | Mokháda ... ... ... ... ... ... ... | 3 |
| 2. | Shahápur ... ... ... ... ... ... ... | 9 |
| 3. | Kinavli ... ... ... ... ... ... ... | 3 |
| 4. | Murbád ... ... ... ... ... ... ... | 6 |
| 5. | Kalyán ... ... ... ... ... ... ... | 6 |
| 6. | Karjat ... ... ... ... ... ... ... | 4 |
| 7. | Khálápur ... ... ... ... ... ... ... | 2 |
| 8. | Panvel and Uran ... ... ... ... ... ... | 6 |
| | Total ... | 39 |
| | Grand Total ... | 84 Rounds. |

42. Ranges and Rounds are for protective purposes sub-divided into Beats, and each Beat is placed in charge of a Forest Guard. In view of the efficient protection of the valuable and remunerative tree property of Government, it is necessary that no Beat shall be of greater size than can be properly watched and patrolled by one Forest Guard. Every tree represents a sum of money, and consequently it is a direct pecuniary loss to Government to suffer trees to be stolen and appropriated, or to be injured by the *ráb* cutter, or by fire, for false considerations of economy in curtailing establishments the entertainment of which daily

experience proves to the local officers to be absolutely necessary if such loss is to be prevented. The Committee are of opinion that the number of Beats in the several Ranges should be as under:—

I.—N.-W. Tha'na.

| | | |
|---|---|---|
| 1. | Umbargaon ... ... ... ... ... ... | 17 |
| 2. | Dahánu ... ... ... ... ... ... ... | 41 |
| 3. | Máhim ... ... ... ... ... ... ... | 42 |
| 4. | Váda ... ... ... ... ... ... ... | 27 |
| 5. | Bassein ... ... ... ... ... ... ... | 26 |
| 6. | Sálsette ... ... ... ... ... ... ... | 14 |
| 7. | Bhivandi ... ... ... ... ... ... ... | 20 |
| | Total... | 187 |

II.—S.-E. Tha'na.

| | | |
|---|---|---|
| 1. | Mokháda ... ... ... ... ... ... ... | 11 |
| 2. | Shahápur ... ... ... ... ... ... ... | 38 |
| 3. | Kinavli ... ... ... ... ... ... ... | 11 |
| 4. | Murbád ... ... ... ... ... ... ... | 34 |
| 5. | Kalyán ... ... ... ... ... ... ... | 33 |
| 6. | Karjat ... ... ... ... ... ... ... | 29 |
| 7. | Khálápur ... ... ... ... ... ... ... | 19 |
| 8. | Panvel and Uran ... ... ... ... ... | 38 |
| | Total ... | 213 |
| | Grand Total ... | 400 Beats. |

The above sub-division into Rounds and Beats will make each Round to consist of an average of 40 square miles of country, while each Beat will include over 5 square miles of demarcated and constituted forest lands and over 11 square miles of territorial area.

43. Every Range Forest Officer requires to have attached to him one Forest Guard to act as his writer, to keep his accounts and conduct his office work so that the Range Forest Officer may not be tied down to his desk but may be at liberty for out-of-door work. He requires also a Forest Guard to act as his orderly, to carry his post and messages, to escort arrested offenders, take collections to the Treasury, and so forth.

Every Round Guard likewise requires to have a Forest Guard attached to him for similar service.

44. If the above stated opinions of the Committee are acted up to, the subordinate Forest Establishment of the Thána Districts will be constituted as under:—

| | |
|---|---|
| (1). Range Forest Officers who may be Foresters or Rangers, on salaries of from Rs. 20 to Rs. 100 monthly ... ... ... | 15 |
| (2). Round Guards, who may be Foresters or Forest Guards on salaries of from Rs. 10 to Rs. 15 monthly ... ... ... | 84 |
| (3). Forest Guards acting as writers to Range Forest Officers on salaries of Rs. 9 monthly ... ... ... ... | 15 |
| (4). Forest Guards in charge of Beats ... ... ... | 400 |
| (5). Forest Guards attendant on Range Forest Officers ... | 15 |
| (6). Forest Guards attendant on Round Guards ... ... | 84 |

45. The numerical strength of the establishment of Round and Forest Guards suggested by the Committee will therefore be as follows:—

| | |
|---|---|
| Round Guards ... ... ... ... | 84 |
| Forest Guards ... ... ... ... | 514 |

Their distribution among grades, the proportion of men in the 1st, 2nd, and 3rd grades being as 1 : 2 : 3 respectively, would be as follows:—

*Round Guards.*

| | |
|---|---|
| On Rs. 15 ... ... ... ... ... | 14 men. |
| „ „ 12 ... ... ... ... ... | 28 „ |
| „ „ 10 ... ... ... ... ... | 42 „ |
| Total... | 84 men. |

*Forest Guards.*

| | | |
|---|---|---|
| On Rs. 9 | ... | 85 men. |
| „ „ 8 | ... | 170 „ |
| „ „ 7 | ... | 259 „ |
| | Total... | 514 men. |

The cost of the establishment monthly being as under—

*Round Guards.*

| | | |
|---|---|---|
| 1st Grade ... | ... Rs. | 210 |
| 2nd „ ... | ... „ | 336 |
| 3rd „ ... | ... „ | 420 |
| | Total...Rs. | 966 |

*Forest Guards.*

| | | |
|---|---|---|
| 1st Grade ... | ... Rs. | 765 |
| 2nd „ ... | ... „ | 1,360 |
| 3rd „ ... | ... „ | 1,813 |
| | Total...Rs. | 3,938 |
| | Grand Total of Protective Establishment...Rs. | 4,904 |

46. The cost of the Depôt Establishment will be as under:—

| | | |
|---|---|---|
| 10 Depôt Forest Officers on ... | ...Rs. 15 = | 150 |
| 20 „ „ ... | ... „ 12 = | 240 |
| 31 „ „ ... | ... „ 10 = | 310 |
| | Rs. | 700 |
| 61 Forest Guards on ... | ... „ 6 = | 366 |
| | Grand Total of Depôt Establishment...Rs. | 1,066 |
| | Grand Total of both Establishments...Rs. | 5,970 |

47. This report is accompanied by a copy of the Revenue Survey map of the Thána Collectorate, in which the District Forest Officers have marked the boundaries of the proposed Ranges, Rounds and Beats, the Head Quarters of the subordinate officers in charge of those sub-divisions, and the sites of the proposed depôts.

W. B. MULOCK,
Collector of Thána.

A. T. SHUTTLEWORTH,
Conservator of Forests, N. D.

E. J. EBDEN,
Forest Settlement Officer, Thána.

W. W. LOCH,
First Assistant Collector, Thána.

G. K. BETHAM,
District Forest Officer, N. Thána.

A. D. WILKINS,
District Forest Officer, S. Thána.

# APPENDIX A.

## N.-W. DIVISION.

### I.—Umbargaon *Peta*.

| Under Section 41. | | Agricultural. | Contractors. |
|---|---|---|---|
| 1. | Bhilád ... | ... Yes ... | ... ? |
| 2. | Sanján ... | ... Yes ... | ... ? |
| 3. | Vevji ... | ... Yes ... | ... ? |

### II.—Dahánu.

| | | | |
|---|---|---|---|
| 1. | Gholvad ... | ... Yes ... | ... ? |
| 2. | Dahánu Station | ... Yes ... | ... ? |
| 3. | Vángaon ... | ... Yes ... | ... ? |
| 4. | Sávte ... | ... Yes ... | ... ? |

### III.—Máhim.

| | | | |
|---|---|---|---|
| 1. | Manor ... | ... Yes ... | ... ? |
| 2. | Dahisar ... | ... Yes ... | ... ? |
| 3. | Boisar ... | ... Yes ... | ... ? |
| 4. | Pálghar ... | ... Yes ... | ... ? |
| 5. | Saphála ... | ... Yes ... | ... ? |
| 6. | Umbarpáda ... | ... Yes ... | ... ? |

### IV.—Bassein.

| | | | |
|---|---|---|---|
| 1. | Mori Bunder (either Sásunavghar or Káman) ... | ... Yes ... | ... ? |
| 2. | Mándvi ... | ... Yes ... | ... ? |
| 3. | Bhátána ... | ... Yes ... | ... ? |
| 4. | Khárbáv ... | ... Yes ... | ... ? |
| 5. | Virár ... | ... Yes ... | ... ? |
| 6. | Bassein Road | ... Yes ... | ... ? |

### V.—Sálsette.

| | | | |
|---|---|---|---|
| 1. | Thána ... | ... Yes ... | ... ? |
| 2. | Andheri ... | ... No ... | ... ? |
| 3. | Belápur ... | ... Yes ... | ... ? |
| 4. | Borivli ... | ... Yes ... | ... ? |
| 5. | Bhándup ... | ... No ... | ... ? |

### VI.—Bhivandi.

| | | | |
|---|---|---|---|
| 1. | Bhivandi ... | ... Yes ... | ... ? |
| 2. | Junándruk ... | ... Yes ... | ... ? |
| 3. | Padghe ... | ... Yes ... | ... ? |
| 4. | ... | ... Dugád ... | ... ? |

### VII.—Shahápur.

| | | | |
|---|---|---|---|
| 1. | Kására ... | ... Yes ... | ... ? |
| 2. | Vásind ... | ... Yes ... | ... ? |
| 3. | Asangaon ... | ... Yes ... | ... ? |
| 4. | Atgaon ... | ... Yes ... | ... ? |
| 5. | Khardi ... | ... Yes ... | ... ? |

| Under Section 41. | | Agricultural. | Contractors. |
|---|---|---|---|

### VIII.—Mokha'da.

| | | | |
|---|---|---|---|
| 1. | Khodále ... | ... Yes ... | ... ? |
| 2. | Mokháda ... | ... Yes ... | ... ? |
| 3. | Talásri ... | ... Yes ... | ... ? |

### IX.—Váda.

| | | | |
|---|---|---|---|
| 1. | ... | ... Váda ... | ... ? |
| 2. | ... | ... Goreh ... | ... ? |
| 3. | ... | ... Kudus ... | ... ? |

## S.-E. DIVISION.

### I.—Kalyán.

| | | | |
|---|---|---|---|
| 1. | Mumbre ... | ... Yes ... | ... ? |
| 2. | Kalyán ... | ... Yes ... | ... ? |
| 3. | Titvála ... | ... Yes ... | ... ? |
| 4. | Khadaoli ... | ... Yes ... | ... ? |
| 5. | Badlápur Station | ... Yes ... | ... ? |
| 6. | Vángni ... | ... Yes ... | ... ? |

### II.—Murbád.

| | | | |
|---|---|---|---|
| 1. | Vaishákre ... | ... Yes ... | ... ? |
| 2. | Murbád ... | ... Yes ... | ... ? |
| 3. | ... | ... Khutal ... | ... ? |

### III.—Karjat.

| | | | |
|---|---|---|---|
| 1. | Neral ... | ... Yes ... | ... ? |
| 2. | Chincholi ... | ... Yes ... | ... ? |
| 3. | Karjat ... | ... Yes ... | ... ? |
| 4. | Palasdhari ... | ... Yes ... | ... ? |
| 5. | ... | ... Sugve ... | ... ? |

### IV.—Khálápur.

| | | | |
|---|---|---|---|
| 1. | Khálápur ... | ... Yes ... | ... ? |
| 2. | Chauk ... | ... Yes ... | ... ? |
| 3. | Khopoli ... | ... Yes ... | ... ? |

### V.—Panvel.

| | | | |
|---|---|---|---|
| 1. | Panvel ... | ... Yes ... | ... ? |
| 2. | Apte ... | ... Yes ... | ... ? |
| 3. | Sái ... ... | ... ... ... | ... ? |
| 4. | Taloje ... | ... Yes ... | ... ? |
| 5. | Ulve ... | ... ... ... | ... ? |
| 6. | Vindhane ... | ... ... ... | ... ? |

# APPENDIX B.

RULES prescribed by the Collector under Section 44 of the Bombay Land Revenue Code for regulating the exercise of privileges in waste land which is the property of Government and has not been constituted Reserved, Protected, or Village Forest, and in *varkas* lands in Dahánu including Umbargaon, in Shahápur including Mokháda, and in Váda, where Government have reserved all rights to trees under Section 40 of the Land Revenue Code, and in Karjat including Khálápur, and in Panvel, where Government have reserved all rights in *varkas* lands to the kinds of trees besides teak and black-wood specified marginally, under Section 40 of the Land Revenue Code.

1. *Ain.*
2. *Hed.*
3. *Nána.*
4. *Kalam.*
5. *Asána.*
6. *Bibla.*
7. *Khair.*
8. *Shivan.*
9. *Tivas.*
10. *Koshimb.*
11. *Dhávda.*
12. *Kinjal.*
13. *Jámb.*
14. *Kinai.*

## *I.—Firewood.*

1. Only dry and dead-wood can be taken. No trees are to be felled, nor green wood taken, on any account.

2 The privilege of taking firewood is limited to the residents of the village in which the lands are situated.

3. No sale is permitted of firewood thus allowed to rayats. Any one selling such is guilty of misappropriation (*vide* Imperatrix *v.* Surajmal Sagáji, case No. 25 of 1880, of the file of the Assistant Session Judge).

4. Not more than five cart-loads of firewood will be allowed to any one person for his annual consumption.

5. Firewood can be obtained at reasonable prices at the Government depôts.

## *II.—Material for ráb and fencing.*

1. Only those survey occupants and sub-tenants who have no *varkas* or have an insufficient amount, will be allowed to take *ráb* from other than the *varkas* lands. Those who have denuded their lands of trees will not be allowed *ráb.*

2. No tree is ever to be cut down for *ráb*: only lopping will be allowed of the kinds not specially reserved. The top (*shendi*) is never to be cut. Any one injuring a tree by cutting the top or when lopping the tree, will be liable to pay its full value under Section 43 of the Land Revenue Code.

3. The above privilege is limited to the residents of the village in which the lands are situated.

4. *Ráb* must be cut and removed between 1st April and 31st May.

5. If the Protected or Reserved jungles in a village are burnt or injured, no *ráb* will be allowed to the villagers from Government waste lands.

6. Any one burning *ráb* and allowing the fire to spread to the injury of the adjoining forests, is liable to 6 months' imprisonment under Section 32, clause (*d*) of the Indian Forest Act.

7. *Ráb* can only be burnt in occupied land.

8. Rayats of villages in which there are no forests can obtain *ráb* on payment of 8 annas per cart from the Government waste lands.

9. *Ráb* can be obtained at the sales of material for that purpose held periodically by the Forest Department.

10. Where applicable, the above rules apply also to fencing material.

## *III.—Free grants of timber for houses and ploughs.*

1. Timber for a house can only be allowed once in the 30 years' survey settlement lease to occupants and to sub-tenants.

2. The grant should never exceed in value double the assessment paid by the occupant or sub-tenant, and in no case should it exceed Rs. 50 to one person.

3. Applicants for house or plough timber must apply at least three months before the rains to the Revenue authorities, who on granting a permit will issue a duplicate to the Range Forest Officer; the timber will be cut by the Forest Department and the cost of cutting must be paid by the grantees, who will have to remove the timber.

4. A fee of 8 annas is leviable as the price of cutting, &c., ploughs.

5. Building and plough timber can be obtained at reasonable prices at the Government depôts in each *táluka.*

B 1417—26 M

At a meeting held at the Collector's bunglow at Thána on the 19th and 20th October 1883 to discuss questions in connexion with the management of the forests during 1883-84 there are present:—

Mr. T. D. MACKENZIE, Acting Collector.

Mr. A. T. SHUTTLEWORTH, Conservator of Forests, N. D.

Mr. LAWRENCE, Forest Settlement Officer, Thána.

Mr. DREW, Assistant Collector.

Mr. ATKINS, Assistant Collector.

Mr. STEWART, District Forest Officer, North Thána.

Mr. WILKINS, District Forest Officer, South Thána.

Mr. Shuttleworth proposes as subjects for discussion on the management of

(1) *Ráb.*
(2) Agricultural depôts.
(3) Dead-wood contracts.

After discussion and consideration the meeting unanimously agrees that the Collector shall issue a circular order to the *mámlatdárs* for promulgation generally in their *tálukás* to the following effect:—

1. Inhabitants of forest villages are permitted to go into all forests, Reserved or Protected, to cut grass (except when the grass has been specially reserved and sold by auction), reeds, gather leaves (other than *tembhurni, palas* and *ápta*), the following shrubs: *korinda, ukshi, dhâiti, kálákuda, amni, kavni, phángli, shemdi, karvati, kuda* and other brushwood (*burtirán*). This permission extends from 1st December to 31st March.

2. In forests gazetted as Protected they may lop trees other than those belonging to the 25 varieties specified by the Conservator, N. D., in his letter to Government, No. 3588, dated 20th August 1883, paragraph 34. These trees are teak, blackwood, bamboo, *ain, hed, nána, kalamb, asána, bibla, khair, shivan, tivas, koshimb, dhávda, jámb, kinjal, kinhai, bonda, hum, bábhul, mowra,* mango, tamarind, *jámbhul,* and *phanas* (received with demi-official from the Conservator, dated 24th October 1883, appended). Only side branches may be lopped.

3. Inhabitants of non-forest villages who cannot obtain sufficient *ráb* from their *varkas* holdings must procure the additional quantities required:—

(*a*) by purchase from private dealers;

(*b*) by obtaining passes from the Forest Department allowing them to remove as much as they require at their own expense from the compartments of the forests that are specially opened for this purpose.

Brushwood only of the kinds that will be specified from time to time by the District Forest Officer will be allowed to be cut, and the period for cutting will be from 1st December to 31st March.

Agricultural Depôts.

2. With reference to the concluding sentence of paragraph 4 of Government Resolution in the Revenue Department, No. 7580, dated 10th October 1883, in which it is ruled that "the *mámlatdár's* certificate that an applicant for wood at the Government depôts is too poor to be able to buy the wood he needs in the open market is clearly requisite," the opinion of the meeting is taken. Mr. Lawrence as Forest Settlement Officer has had no experience of the working of the plan and therefore offers no opinion. Messrs. Wilkins and Stewart, District Forest Officers, Messrs. Atkins and Drew, Assistant Collectors, and Mr. Mackenzie, the Collector, are unanimously of opinion that the plan of requiring the poverty certificate is unworkable, and if it is insisted on, the depôts may as well be closed for all the good they will do to cultivators.

Mr. Shuttleworth admits that he has no knowledge of the working of the plan, but as the old system of free grants of timber was workable so ought this to be. He further considers that the agricultural depôt system should be abolished altogether, that the Forest Department should make their annual cuttings and sales, and leave the local private supply of all timber to local private trade.

The other members present unanimously consider that the depôt system cannot be abolished, and it is decided that the Collector shall address Government with a view to the adoption of the plan proposed by Mr. Wilkins, District Forest Officer, which is that, a *bonâ fide* cultivator, whether poor or well off, shall be allowed to buy wood up to Rs. 10 in one year at any depôt. His receipt book shall be accepted by the forest official at the depôt as proof of his being a cultivator. In default of a receipt book, as in case of *eksáli* and sub-tenants, the certificates of the *talâti* that the bearer is a *bonâ fide* cultivator shall be accepted. The depôt officer shall keep a register in which he shall enter particulars as to sales.

3. Mr. Shuttleworth has no objection to offer if the depôt system is to be worked at all, but would remark that as there are upwards of 30,000 cultivators in the Thána District and as the wood to be sold at the depôts is priced at rates considerably under the market price, if extensive sales take place Government will incur a large loss in revenue and considerable outlay will be incurred in filling the depôts with wood. Depôts to be fixed for 1883-84.

The situation of the various depôts is then settled as follows:—

Váda—
- Váda.
- Kalambhe.
- Gárgáv.
- Tilgáv.
- Pálsai.
- Suponde.

Sháhápur—
- Aghai.
- Vásind.
- Asangáv.
- Atgáv.
- Khardi.
- Kására.
- Shere.
- Chariv.

Bhivandi—
- Padghe.
- Páchhápur.
- Dugád.
- Bhivandi.

Murbád—
- Murbád.
- Khutal.
- Shiroshi.
- Nyáhádi.
- Dhasai.
- Deheré.

Kalyán—
- Badlápur.
- Vángni.
- Titvála.
- Khadavli.
- Ambarnáth.
- Poi.
- Karavle.

Bassein—
- Khárbáv.
- Sásunavghar.
- Mánikpur.
- Virár.
- Mándvi.
- Bhátáne.

Máhim—
- Saphála.
- Pálghar.
- Boisar.
- Dahisar (on Vaitarna).
- Manor.
- Mahágáv.

Dahánu—
- Vángáv.
- Sávta.
- Malyán.
- Gholvad.
- Vevji.
- Sanján.
- Bhilád.

Karjat—
- Khálápur.
- Chauk.
- Khopoli.
- Sugve.
- Neral.
- Chinchavli.
- Volman.

Salsette—
- Borivli.
- Ghodbandar.

Round guards in charge of depôts to be present at the depôts from 6 A. M. to 6 P. M. every Monday. The *mámlatdárs* will be directed on no account to require the attendance at the *kacheri* of round guards on Mondays. Dead wood contract system—amendment thereof.

4. The next subject for consideration is that of the dead-wood contract system of last year. This system is unanimously condemned by the whole meeting as radically bad, in that while the contractors cheated Government and injured the forests, they oppressed the public and simply enriched themselves. A new plan of operations has therefore to be decided on. The subject divides itself into four main heads:—

1. Removal of fallen dead firewood by head-loads.
2. Removal of fallen dead firewood by cart-loads.
3. Removal of heavy dead timber.
4. Removal of bamboos.

In supersession of the previous plan it is agreed unanimously that the system now in use in Sálsette shall be adopted throughout the district. This is, briefly, that persons may go into the forests, bring thence head-loads of dead fallen firewood for sale, and at appointed *nákás* pay a fee. They receive from the *nákedár* a receipt dated and initialled by him and stamped by the District Forest Officer. This receipt acts as a pass to them and frees them from subsequent enquiries by Forest officers. Head-loads of firewood.

Mr. Shuttleworth proposes and the meeting adopts unanimously his proposal that the following shall be the scale of fees:—

1 anna per head-load per man.
9 pies per head-load per woman.
6 pies per head-load per child.

Cart-loads of firewood.

As regards the second head the removal of firewood by cart-loads, a similar plan generally shall be adopted throughout the district. The details of this as settled and agreed to unanimously are, that any person who chooses may, on payment of a fee of one rupee for each ordinary one pair bullock cart, and of two rupees for each large double bullock cart, at the *náka* take his cart or carts into the Government forest from which he may remove as much dead fallen firewood as he chooses. Before leaving the *náka* the forest official in charge thereof shall give him a permit showing the date of issue, and the amount of payments made. On returning from the forest with his load or loads of wood the cartman shall stop at the *náka* and deliver up the permit to the *nákedár*, who shall forthwith give him a pass for the cart-loads which he is then at liberty to dispose of as he pleases.

Removal of heavy dead timber.

With reference to the third head the removal of heavy dead timber, the meeting are agreed that the system of last year should be discontinued, and that this kind of timber should be removed by departmental agency only, the details of this agency being left for settlement by the Forest Department.

Removal and supply of bamboos.

Lastly comes the question of the removal of bamboos and the supply thereof. The meeting are unanimously of opinion that the general principles laid down for the removal of firewood are equally applicable to the removal of bamboos. This being so the only matter for decision is the rate of fee to be levied at the *nákás*. After careful discussion the following rates are fixed by general consent :—

| | Rs. | a. | p. |
|---|---|---|---|
| *Kárvi* per head-load ... ... ... | 0 | 1 | 0 |
| *Jhitás* per head-load ... ... ... | 0 | 1 | 0 |
| *Tokar* (large bamboo) per one hundred ... ... | 4 | 0 | 0 |
| *Bundhi* (small bamboo) per one hundred ... ... | 2 | 0 | 0 |

T. D. MACKENZIE,
Acting Collector of Thána.

A. T. SHUTTLEWORTH,
Conservator of Forests, N. D.

E. LAWRENCE,
Forest Settlement Officer.

W. DREW,
Assistant Collector.

J. DEC. ATKINS,
Assistant Collector.

A. STEWART,
District Forest Officer, North Thána.

A. D. WILKINS,
District Forest Officer, South Thána.

*Thána, 20th October 1883.*

*Forest Commission.*

No. 7075.

REVENUE DEPARTMENT.

Bombay Castle, 5th October 1886.

Letter from Mr. G. W. Vidal, C. S., President, Forest Commission, No. 212, dated 8th September 1886—Requesting that if Government has no objection he may be supplied with a copy of Mr. Mackenzie's report on the petition of the rayats of the Kolvan *táluka* asking, in accordance with the privileges alleged to have been guaranteed to them at the Survey Settlement, to be allowed to cut wood for domestic and agricultural purposes in all places except the Imperial reserves, and of subsequent correspondence on the subject for the use of the Commission.

RESOLUTION.—The Commissioner, N. D., should be requested to send a copy of Mr. Mackenzie's report, which was not forwarded to Government in 1884, to the President, Forest Commission, to whom also a copy of Government Resolution No. 7800, dated 1st October 1884, with accompaniments, may be communicated.

T. D. MACKENZIE,
Acting Chief Secretary to Government.

To

The Commissioner, N. D.,
G. W. Vidal, Esq., C. S., Chairman, Forest Commission (with copies of Government Resolution No. 7800, dated 1st October 1884, and its accompaniments).

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No. 1567 OF 1884

FROM

T. D. MACKENZIE, ESQUIRE,
Acting Collector, Thána;

To

G. F. SHEPPARD, ESQUIRE,
Commissioner, N. D.

*Thána Collector's Office, Bassein,*
*24th March 1884.*

SIR,

It is with much regret that I am compelled to ask you to trouble Government with another reference on the vexed question of forest rights in a portion at least of the district, but the action of the officers of the Forest Department leaves me no choice. I shall endeavour to be as brief and as clear as possible.

2. In accordance with the proceedings of the Forest Conference held last October in Thána, a circular fixing the prices of various sorts of bamboos throughout the district was issued by the District Forest Officer. These prices having been found by actual experience to be oppressive have recently been somewhat lowered, but last month when I was in the Váda *táluka* a petition was presented to me by a large number of rayats in which they complained not only of the excessive rates charged but claimed as a right given to them, at the Survey Settlement of the *táluka*, the power of cutting bamboos of all sorts for domestic purposes.

3. I therefore thought it advisable to look carefully into this matter with the result that I find in the published settlement report No. 558, dated 20th December 1865, at paragraph 8, the following with reference to the Kolvan *táluka*:—

> "The people were informed that they were at liberty to cut firewood and timber for their farming implements and dwellings in any lands except those set aside as Imperial forests. Teak, blackwood, *tivas* and bamboo, (the people however being allowed to cut the latter for domestic purposes), were everywhere reserved to the State."

I further find that Government in their Resolution No. 3183, dated 5th September 1866, sanctioning the settlement say at paragraph 9:—

> "Ample liberty seems to have been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington, which do not deprive them of the rights exercised heretofore in respect of wood."

4. The Kolvan *táluka*, as I need scarcely say, comprises Shahápur *táluka* with Mokhá-da *mahál* and the Váda *táluka*, and with a view to prevent the *táluka* being denuded of wood the rayats were expressly excepted from the right of doing as they pleased with the

wood in their holdings, and any sales of wood for export were strictly forbidden. As compensation for this they were allowed the rights. I use the term applied by the then Government described in my third paragraph.

5. This being so I addressed Mr. Wilkins, the District Forest Officer, North Thána, quoting the above extracts, and asking whether he intended to treat the rayats of the Kolvan *táluka* in the same way as those of the rest of the district. In his reply he asks (1) for a copy of the notification which he assumes to have been issued by Major Waddington informing them of their rights, and (2) whether there was any record of Government having accepted and sanctioned Major Waddington's definition of "Imperial Forests." In answer to this I pointed out that I had no copy of the assumed notification, that probably the intimation had, as was customary, been given to the rayats verbally and publicly at the Jamábandi, but that the present existence or non-existence of a written notification was irrelevant in the face of the plain facts already communicated to him. As regards the definition of "Imperial forests" I said:—

> "It cannot, I think in common justice, be contended that *gurcharan* lands or what were in 1879 under the Indian Forest Act notified as "Protected forests" were included in the term Imperial forests. It seems to me evident enough that the Imperial forests were meant only to include those strictly reserved."

I also added that the Government of 1866 have sanctioned Major Waddington's proposals in their entirety; the forest circular as to bamboos at least was a direct breach of the Government guarantee; that I intended, therefore, to issue instructions to the *mámlatdárs* of Váda and Shaháp̃ur telling them what had been guaranteed to the rayats, but that if he objected to this procedure I would refer the matter for the decision of Government, provided he suspended the working of his orders about bamboos.

6. Mr. Wilkins in his letter No. 241, dated 20th instant, considers that the orders I propose issuing would be opposed to the wishes of Government; states that "Mr. Mulock in his circular of 30th December 1882 issued orders similar to those which you now propose issuing but Government in their Resolution No. 3903, dated 22nd May last, disapproved of his proceedings and ruled that his action in the matter was quite unauthorized."

"In their Resolution No. 2085, dated 13th March 1883, Government have dealt at length with the question of trees in the Shaháp̃ur and Váda *tálukás*, and I would respectfully ask you to refer to the same." He concludes by declining to take the responsibility of suspending the circular about bamboos in these *tálukás*—Váda, Shaháp̃ur and Mokháda—, and adds that he has forwarded the correspondence for the orders of the Conservator, N. D.

7. Now turning to Resolution No. 3903, dated 22nd May 1883, I find that the summary of the Conservator's letter given in the preamble thereto shows that Mr. Wilkins has misunderstood the matter at issue. That circular was dated *30th December 1882*, was addressed only to the *mámlatdárs* of Sálsette, Panvel, Karjat, Murbád, Kalyán, Bhivandi, Bassein, and Máhim. The order, given by Mr. Mulock to the *mámlatdárs* of Shaháp̃ur, Váda and Dahánu was dated *21st December 1882*, was to the effect that "villagers of forest villages in Váda had been prevented taking firewood for domestic purposes and *rán* from their village forests. Such rights should not be interfered with and orders should be given to the Forest subordinates." This circular was never before Government so far as I can see and it was therefore impossible for them to express any opinion whatever upon it.

8. Adverting next to Resolution No. 2085, dated 13th March 1883, in which it is said by Mr. Wilkins that "Government have dealt at length with the question of trees in the Shaháp̃ur and Váda *tálukás*," I can only say that this Resolution seems to me clearly to support my contention, but it is used by Mr. Wilkins, through what logical process I cannot conceive, apparently as an argument against me, inasmuch as supported by it he declines to suspend the operation of the circular about bamboos.

9. I have some confidence that Government, when this letter with the statement of facts is before them, will rule that Mr. Mulock's order to the *mámlatdárs* of Shaháp̃ur and Váda was correct and that my proposal to make those orders widely known to the rayats of those *tálukás* is in order; but I have been so severely censured in their Resolution No. 9443, dated 22nd December last, for my action in Forest questions that I prefer taking instructions on this point before issuing directions.

I have the honour, &c.,

(Signed) T. D. MACKENZIE,
Acting Collector.

(True Copy)
—. F. CARVALHO,
Assistant Commissioner, N. D.

*Forests, Thána: Rights of occupants to cut trees in Protected forests.*

No. 7800.

REVENUE DEPARTMENT.

Bombay Castle, 1st October 1884.

Letter from the Conservator of Forests, N. C., No. 2157, dated 26th April 1884—Requesting orders upon the question whether the people in the *tálukás* and villages which are subject to the Kolvan settlement, as also in the Dahánu *táluka* are to be permitted to cut and appropriate *trees*, save teak, blackwood and *tivas*, in the Protected forests existing in them.

Letter from the Conservator of Forests, N. C., No. 2261, dated 2nd May 1884—Forwarding, in continuation of his letter No. 2157, dated 26th April 1884, a copy of one No. 2171, dated 28th idem, addressed by him to the Commissioner, N. D., in reply to the letter from that officer, No. 1398, dated 23rd idem.

Letter from the Remembrancer of Legal Affairs, No. 1223, dated 16th September 1884—Replying to the questions raised in Government letter No. 4008, dated 19th May 1884, and the correspondence forwarded therewith.

RESOLUTION.—The opinion of the Remembrancer of Legal Affairs in this case is in entire accord with that of Government as stated in the letter No. 4008, dated 19th May 1884, to the address of the Remembrancer of Legal Affairs. Copies of that letter and of Mr. Naylor's reply should be forwarded to the Commissioner, N. D., the Conservator of Forests, N. C., and the Collector of Thána for information and guidance.

W. P. SYMONDS,
Acting Under Secretary to Government.

To

The Commissioner, N. D.,
The Conservator of Forests, N. C.,
The Collector of Thána.
The Remembrancer of Legal Affairs.
} With copies of the papers referred to.

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No. 4008 OF 1884.

REVENUE DEPARTMENT.

Bombay Castle, 19th May 1884.

To

THE REMEMBRANCER OF LEGAL AFFAIRS.

SIR,

I am directed to forward for the favour of your opinion on the question raised therein the accompanying papers with the proceedings on the subject and to communicate the following observations of His Excellency the Governor in Council on the several points discussed in the papers.

2. In the first place the question arises whether the Superintendent of Survey, if he did what the Collector assumes, was authorised to make concessions of the right to cut trees in forest or waste-lands. It seems to His Excellency the Governor in Council that the Survey Department is concerned only with the concession of rights to trees as an incident of *occupancy*.

3. The next question is whether if Major Waddington made any distinct concession, it was ratified by Government. Reference is made among the papers to paragraph 9 of Government Resolution No. 3183 of September 5th, 1866, as an authority for the concession, but in the opinion of His Excellency the Governor in Council this paragraph refers to paragraphs 3-5 of Major Francis' report No. 429 of June 27th, 1866, which deals obviously with trees in *rayats' holdings*.

4. His Excellency the Governor in Council further considers that even if such a privilege as is supposed on lands now in Protected forest were tacitly recognized by Government in 1866, it was clearly only as a revocable privilege, for the trees in such land are confessedly the property of Government, no right of prescription accrues against Government, and Government is entitled to make such lands Protected forest and prohibit the cutting of any class of trees therein.

5. Again as there were no Imperial reserves in Kolvan and Dahánu in 1866, it would appear to be a reasonable construction of the words "lands set aside as Imperial forests" that they mean "lands which may from time to time be set aside."

6. As in forming an opinion on the legal aspect of the position taken up by the Collector and Commissioner you may require information on two points, *viz.*:

1. Whether any concession was made as supposed with regard to forest and waste land,

2. Whether any land other than forest and waste land was notified under section 34 in 1879,

I am to direct your attention as regards the first point to a report by the late Mr. Cordeaux (*vide* preamble of Government Resolution No. 1573, dated 8th March 1882) in which is quoted the following extract taken from the Survey Settlement notification of the Dahánu *táluka*:—

> "The *varkas* land not having been measured until now, the cultivators used to take for the cultivation of their fields *ráb* and *táhál* (material for ash manure) free of assessment. These lands have been measured at the time of the Survey and assessment fixed on them, and the names of those who used to take *ráb* and *táhál* from these lands have been entered in the records. *From the jungles of these numbers* the persons in whose names they are entered are at liberty to cut for their subsistence, *i.e.* to say for field and household use all trees with the exception of teak, blackwood and *tivas*, but nobody has been given authority to act according to Section 40 of the Act or to trade in wood."

The passage above quoted would appear to show the exact extent of the concession which Government meant to convey to occupants under the Kolvan and Dahánu settlements, and it will be seen from the following passage quoted from Major Waddington's subsequent report on the Dahánu *táluka*, that the latter officer himself did not mean to convey the sense put by the Commissioner and Collector on paragraph 8 of his report on the Kolvan *táluka*:

> "There is one important subject in which I have to request the orders of Government in connection with this district, namely, whether the right of the people to fell timber on *ráb* lands should not be restricted to cutting fuel for domestic use, and wood for their houses and agricultural implements. At the time of the settlement of the Kolvan *táluka*, the Survey Commissioner, Northern Division, the late Mr. Gordon then Collector of Thána, and myself, were so strongly impressed with the necessity of checking the wholesale destruction of timber which was then going on that we took on ourselves the responsibility of forbidding the felling of timber in *málki* numbers for any purposes besides those enumerated above, and *our proceedings were sanctioned by Government Resolution No. 3183, dated 5th September 1866.*"

> "In a district so well wooded as that under report, and which is traversed throughout its length by the B. B. & C. I. Railway, I deemed it of the utmost importance to guard against the destruction of timber, and after consultation with the Survey Commissioner, Northern Division, *I made the same restriction applicable in this táluka as had been imposed in Kolvan.*"

In paragraph 6 of their Resolution No. 2775, dated 11th June 1870, Government approved of these proposals. It is thus clear that the Survey Settlement went no further than that it allowed to the rayats certain rights to trees in occupied holdings, and that it was never meant to concede to the people any right of cutting wood in Protected forests or other waste land.

7. As regards the second question, the following passage occurs in a letter from the Collector of Thána, with which he submitted the notifications regarding Reserved and Protected forests in that district:

"For Protected forests we have taken the remainder of the unoccupied unassessed area and included also assessed *kuran* land. This area comprises 2nd class reserves demarcated by special officers and set aside by the Survey Department as well as land entered in the village registers as *gurcharan rán rakshan-gurcharan* (forest in which free grazing is allowed), *parigh* (unassessed waste land), *khájan* (salt marsh land), so much as has not been taken up for reclamation, and *kuran* assessed and unassessed."

It will thus be seen that no occupied land was included in the area notified as Protected forest in 1879.

I have, &c.,

J. NUGENT,
Secretary to Government.

No. 1223 of 1884.

From

THE HONOURABLE J. R. NAYLOR,
Remembrancer of Legal Affairs;

To

THE SECRETARY TO GOVERNMENT,
Revenue Department.

*Poona, 16th September 1884.*

SIR,

I have the honour to reply to Government letter No. 4008, dated 19th May 1884.

2. The question raised in the correspondence sent to me and herewith returned (together with the Revenue Volumes and Compilations* mentioned in the margin of paragraph 1 of the letter under reply) is whether under the Kolvan and Dahánu Survey Settlements a right to cut timber for domestic or agricultural purposes was conceded to any person other than the occupants of land and their inferior holders and whether the concession extended beyond the limits of occupied lands.

* By Railway parcel.

3. In reporting on the settlement introduced by him into the Kolvan *táluka* (now the Váda and Shahápur *tálukás*) Major Waddington, Superintendent of the Survey, wrote as follows (*vide* paragraphs 7 and 8 of his report No. 558 of 20th December 1865, Government Selections No. 96, page 416):—

"7. At the time of settlement I set aside the forest reserves in such villages as my local knowledge enabled me to do so; but boundary marks have to be erected, and in those portions of the *táluka* with which I was not personally acquainted, the Imperial Forest numbers have to be marked off.

"8. The people were informed that they were at liberty to cut firewood and timber for their farming implements and dwellings in any lands except those set aside as Imperial forests. Teak, blackwood, *tivas*, and bamboo (the people however being allowed to cut the latter for domestic purposes) were everywhere reserved to the State. No wood of any kind is to be exported or sold for export."

Restriction on felling timber.

4. Colonel Francis, the Survey Commissioner, when submitting the above report to Government with his Memorandum No. 429 of 27th June 1866, entered into more detail. Referring to paragraph 8 of Major Waddington's report he wrote as follows (Government Selections No. 96, pages 424-25):

"3. Before introducing the settlement, the Superintendent and the undersigned conferred with the Collector (the late Mr. Gordon) as to the expediency of excepting this district from the application of the rules in the Revenue Commissioner's Circular,* respecting trees in rayats' holdings. It appeared to us, that as the lands claimed and marked off as the rayats' *rán* holdings contained larger quantities of timber in many cases, it would not be advisable to give over the property in trees unreservedly to the occupant, as enjoined in the rules. It was arranged, therefore, that for agricultural or domestic purposes, he should have the free use of any wood in his holding, but that he was restricted from cutting it for purposes of sale.

Paragraph 8.

* No. 2000, dated 17th July 1863.

"4. In a jungle country where the *rán* lands are generally interspersed with the forest tracts, as is particularly the case in this district, a departure from the rule seems to be advisable and the arrangement entered into appears to meet the circumstances of the case, for the cultivators will retain their rights in trees on *rán* lands, which, as heretofore enjoyed, have been confined to requirements for domestic and agricultural purposes whilst the property in the wood will remain at the disposal of the State.

"5. The cultivators of some villages objected to this arrangement, on the ground that it deprived them of the privilege of selling the wood of their holdings, as enjoyed in the adjoining district of Bhivandi. It appeared on inquiry, that in some cases they had already agreed with wood merchants, on the supposition of the Revenue Commissioner's order being applied, for the sale of wood from their *rán* lands, for considerable sums. The district would thus have been denuded of wood in a few years; whereas the plan proposed whilst prohibiting its sale for export, is calculated to preserve a supply of it, without depriving the rayats of the rights hitherto exercised in respect to wood.

For these reasons, the Survey Commissioner would beg to recommend that the entire *táluka* be excepted from the Circular Order alluded to, and managed under the special arrangements herein explained."

5. The order passed by Government upon this correspondence was as follows (*vide* Government Resolution No. 3183 of 5th September 1866, paragraph 9, Government Selections No. 96, page 433) :—

"9. The suggestion for excepting the district for the present from the operation of the Rules which were sanctioned in Resolution No. 1106, dated March 26th, 1864, is approved. Ample liberty seems to have been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington, which do not deprive them of the rights exercised heretofore in respect of wood."

6. The rules to which reference was made related to "free grants of wood for agricultural and special purposes." The Revenue Commissioner's Circular No. 2000 of 17th July 1863 was issued by him to the Collectors of his own division only. It prescribed the purposes for which and the extent to which they should give timber belonging to Government free of charge and laid down that "the grants were to be made from any collection of timber that may be available" and that when no depôt was available, "the applicants should be allowed permits or passes to cut on their account such trees as may have been marked for cutting, the forest establishment being responsible that the privilege is not abused." Government in their Resolution No. 1106 of 26th March 1864, paragraph 6, directed that these rules should "be generally adopted, the wood thus granted being cut from the reserved kinds of timber in the village reserves."

7. I find it difficult to think that Colonel Francis was aware of the exact scope of the rules he referred to in the margin when he penned the paragraphs of his report quoted above (paragraph 4). It is probable that he meant to refer to the rules contained in the Revenue Commissioner's Circular No. 2545 of 13th October 1862 (Revenue Volume 109A of 1862-64, page 157) and not to his other Circular No. 2000 of 17th July 1863. The effect of the order of Government passed upon his recommendation was that in the Kolvan *táluka* no free grants were to be made by the Collector from the "village reserves," because "ample liberty had been given to the rayats respecting the cutting of timber by the arrangements of Major Waddington." So far as regards occupants and their inferior holders this was quite reasonable; but if free grants from village reserves were necessary in *tálukás* in which all trees except a few reserved ones were given over unrestrictedly to the rayats, it seems to follow that the same grants ought *á fortiori* to have been allowed in a *táluka* in which the rayats were only granted very restricted rights over the trees in their holdings, and in which non-agriculturists therefore could obtain nothing. This apparently illogical result is, I think, due to Colonel Francis having quoted, as above suggested, the wrong circular in his report to Government.

8. From Colonel Francis' account of the conference between Major Waddington and the Collector and himself it seems that "Major Waddington's arrangements" were not intended to do more than limit the right of rayats to trees growing in the lands in their respective occupation, by providing that "for agricultural or domestic purposes the occupant should have the free use of any wood in his holding, but that he was restricted from cutting it for purposes of sale," and that "the property in the wood" should remain "at the disposal of the State."

9. Major Waddington's own statement is that "the people were informed that they were at liberty to cut firewood and timber for their farming implements and dwellings in any lands except those set aside as Imperial forests." In using the word "people," I do not think Major Waddington meant any body but the rayats, *i.e.*, the occupants of lands to which his settlement extended. With other people he, as Superintendent of the Survey, had no concern and it does not appear that he had any authority to deal with or make any concessions to any people but such occupants. Government also in their Resolution above quoted referred only to the liberty which had been given by Major Waddington's arrangements to "the ryots" and therefore cannot be deemed to have sanctioned any concessions to other people. But Major Waddington's words also contain another wide expression. He says liberty was given to cut firewood and timber "in any lands except those set aside as Imperial forests." He had in the previous paragraph explained that he had himself set aside forest reserves in such villages as his local knowledge enabled him to do so, but that in those portions of the *táluka* with which he was not personally acquainted the Imperial forest numbers had still to be marked off. It is evident therefore that when he made use of the expression "lands except those set aside as Imperial forests," he contemplated some lands being so set aside after the time when he was writing. He meant in fact "lands not already set aside, or which may not hereafter be set aside as Imperial forests." Although therefore it may be true, as stated in paragraph 16 of the Conservator, N. D.'s No. 2157 of 26th April 1884 that "there had been no demarcation of forest lands into Imperial and village reserves" in the Kolvan *táluka* at the time Major Waddington wrote, I take it that his meaning was that the liberty which he had conceded was not to extend to any land which might be required for Imperial forests in the sense in which he understood that term. The lands which, Colonel Francis said, "were claimed and marked off as the rayats' *ráb*-holdings" were, presumably, quite distinct from the land held

by Major Waddington to be available for Imperial forests, so that when he spoke of "lands except those set aside as Imperial forests," he, probably, was speaking loosely and meant only to indicate rayats' *ráb*-holdings already in occupation or available for occupation. If, however, it be held, as I think it must be held, that Major Waddington conceded the liberty of cutting firewood and timber to occupants only and to each occupant within his own holding only, the vagueness of his language in specifying the lands to which his concession applied is immaterial because *ex vi termini* the concession could not apply to any but occupied lands.

10. The announcements or "instructions" which Major Waddington actually made on the introduction of the Survey Settlement in the Kolvan *táluka* were, however, reduced by him into writing and a copy of the same was sent by him on the 10th April 1867 to the *Mámlatdár* of Váda. According to the translation furnished to Government by the Collector with his Memorandum No. 5102 of 24th August 1883 those "instructions" contained the following passages :—

"3. No one has any authority to use in any way such numbers as have been set aside by Government for forest and other purposes. Any one doing so will be liable to punishment under Section 33 of the Act.

"4. It has been the practice to use free of assessment *varkas* land which had not hitherto been measured for *ráb* and *táhál* used for cultivation of your fields. This land at the time of the measurement, has been marked off into numbers and assessed. The numbers have been entered in the records in the names of the persons who were in the habit of using them for *ráb* and *táhál*. Excepting teak, blackwood and building timber which Government shall direct to be reserved in these numbers the rest out of the forests the occupants having the numbers in their names are at liberty, under Section 40 of the Act, to cut for *táhál* and for subsistence, *i.e.*, to cut firewood for agricultural and domestic purposes, but no one has any authority to cut and sell trees or to trade in them.

"7. Limits of *rán rakshan* numbers (Reserved forest numbers) will in time to come be demarcated when should it appear necessary to include in those reserved numbers any of the numbers now standing in occupants' names, Government have reserved the right of doing so."

These extracts appear to me fully to bear out the interpretation which I place upon Major Waddington's report No. 558 of 21st December 1865 (*supra* paragraph 3) and to show that the rights which were conceded by that officer, with the subsequent rectification of Government, extended only to occupied lands and to the holders of those lands.

11. This view is still further confirmed by Major Waddington's remarks upon the Kolvan settlement in paragraph 15 of his report No. 474 of 14th October 1868, on the introduction of the Survey Settlement into the Dahánu *táluka*. He wrote :—

"15. There is one important subject on which I have to request the orders of Government in connection with this district, namely, whether the right of the people to fell timber on *ráb* lands should not be restricted to cutting fuel for domestic use, and wood for their houses and agricultural implements. At the time of the settlement of the Kolvan *táluka*, the Survey Commissioner, N. D., the late Mr. Gordon, then Collector of Thána, and myself, were so strongly impressed with the necessity of checking the wholesale destruction of timber which was then going on, that we took on ourselves the responsibility of forbidding the felling of timber in *málki* numbers for any purposes other (?) than those enumerated above, and our proceedings were sanctioned by Government Resolution No. 3183 of 5th September 1866.

"In a district so well wooded as that under report, and which is traversed throughout its length by the Bombay Baroda and Central India Railway, I deemed it of the most importance to guard against the destruction of timber, and after consultation with the Survey Commissioner, N. D., I made the same restrictions applicable in this district as had been imposed in Kolvan."

12. The First Assistant Collector, Mr. Trevor, was averse to the extensive reservation of Government rights over trees in occupied numbers in force in Kolvan and now proposed by Major Waddington for Dahánu and communicated his opinion to the Collector. But the Collector, Mr. J. W. Robertson, supported the views of the Survey Department. I extract the following passages from his letter No. 13 of 7th January 1869 to the Revenue Commissioner, N. D. :—

"7. In paragraph 15 Major Waddington urges the advisability of protecting the forest produce on *málki* lands and restricting the cutting of timber by the rayats to cutting fuel for domestic use, and wood for their houses and agricultural implements. Mr. Trevor is entirely opposed to any such restriction, and advocates the right of felling all timber unreservedly, except the valuable kinds such as teak, blackwood, &c., being granted, and in support of his opinion urges that any such restriction is opposed to the spirit of the rules laid down by Government on the subject.

"8. * * * * The right of Government to reserve all forest produce, or to hand it over, excepting particular kinds, has at all times been acknowledged, and it no way follows that, because in many instances it has foregone its rights in certain districts over such produce on *málki* numbers it is *á fortiori* bound to act in a like spirit in districts, which pre-eminently, in every sense of the word, may be said to be forest districts. That such is the case as regards the district under report, nothing more conclusively shows than that of the area under cultivation, which as stated amounts to only 103,297 acres in an area of 470 square miles.

"9. I therefore cannot concur with Mr. Trevor that Government should be actuated by one rule alike for all districts. * * * * In the instance under notice the cultivator is allowed to fell timber for domestic purposes such as firewood, &c., for building his house and for agricultural implement purposes; beyond this, unless it be for barter and sale, I can hardly see what more rights he can desire, as the above must fully and amply meet all his wants in every form and shape."

13. The Survey Commissioner, Colonel Francis, forwarded this corrrespondence to Government with his letter No. 437 of 12th May 1869 and made the following observations and recommendations:—

"6. I agree entirely with the Collector in his view of the Superintendent's plan of not conceding to the cultivators of this district the right of sale in the wood in occupied lands, and think it expedient that their usufruct of it should, as proposed, be confined to the requirements for *ráb*, agricultural and fuel purposes. They have hitherto held the *varkas* lands on these terms, and no one has ever claimed the right of cutting wood for the express purpose of exporting it for sale. Moreover the *varkas* rate has not been fixed so as to cover the value of the existing supply of wood, but made low, on the contrary, on the consideration of the land being held on the conditions mentioned above.

"7. In the Kolvan *táluka* a similar rule was adopted in respect to the property of trees in occupied lands.

* * * * * *

"8. The plan works well in Kolvan where it has been productive of the best results, and I strongly recommend its adoption in the district now reported on."

14. In paragraph 6 of their Resolution No. 2775, dated 11th June 1870, Government approved of the restrictions which had been imposed in the Dahánu *táluka* on the cutting of wood. "The rayats" they said "will be allowed the utmost freedom in supplying themselves with all they require for their own domestic and agricultural purposes, but they will not be permitted to turn wood-dealers."

15. These quotations show that the restrictions and concessions extended to the Dahánu *táluka* were precisely the same as were previously extended to the Kolvan *táluka*. There is no indication in them of any intention of applying the concessions to any persons other than the occupants of land or of extending those concessions to any land not in occupation. The only document in connection with either of the two settlements from which such an intention is arguable is Major Waddington's report quoted in my paragraph 3, but the other writings of that officer show clearly that he entertained no such intention.

16. Moreover, as I have already stated, the Survey Department had no concern with any people other than landholders and had no authority, legislative or executive, to bestow any rights over trees in Government waste lands or forests on such people. And as the avowed object of the Survey Department was to *restrict* wood-cutting in these two *tálukás* it is highly improbable that they would confer rights, unnecessarily, on non-agriculturists.

17. The announcement made by the Survey Superintendent to the rayats of the Dahánu *táluka* at the time of the introduction of the Survey was even more explicit than that made in the Kolvan *táluka*. In the translation furnished to Government by the Collector with his Memorandum No. 5102, dated 24th August 1883, there is the following paragraph:—

"4. *Varkas* lands not having been measured until now, you used to take therefrom free of assessment *ráb* and *táhál* (materials for ash manure) for the cultivation of your fields. These lands have at the Survey been marked off into numbers and assessed and these numbers have been entered in records in the names of those who used to take *ráb* and *táhál* therefrom. Persons in whose names the numbers are entered are at liberty to take *táhál* from the jungles in these numbers, teak, blackwood and *tivas* excepted, for agricultural purposes and for subsistence, *i.e.*, they are at liberty to cut firewood requisite for agricultural and domestic purposes, but no one has been given permission to act according to Section 40 of the Act or to trade (in wood)."

18. On a review of the whole of the correspondence and proceedings I am clearly of opinion that no concessions were made in either of the two *tálukás* in question to any but occupants (including, as was afterwards held by Government, their inferior holders) and that the concessions made to them applied only to the lands within their respective occupancy.

19. A further question has been raised by the Commissioner as to how far Government should permit their officers to go in preventing the exercise of disputed claims in the forests notified under Section 34 of the Forest Act in the interval between now and the time when a Forest Settlement Officer will be able to take up the inquiry into rights in those forests. On this point I am submitting a full opinion in my No. 1224 of this day's date. There is nothing in section 34 of the Forest Act which requires Government to abstain, pending inquiry, from asserting and vindicating their own rights. If the claims are numerous that would be a good reason for appointing a Forest Settlement Officer at the earliest practicable date to inquire into and settle them, but Government are quite justified in preventing waste and destruction being committed by claimants in the meantime. If such claimants are not content to await the investigation of their claims under the Forest Act, the Civil Courts are available to them for the assertion of them at once.

20. I, of course, do not mean to imply that Government can authoritatively rule that no rights were conceded in forest and waste lands at the introduction of the Survey. If rights are claimed before the Forest Settlement Officer, when one is appointed, either in consequence of the concessions made at the time of the Survey Settlement or on any other ground, it will be his duty to inquire into and decide those claims. The views which I submit with regard to the Survey Settlement are such as may be used before the Forest Settlement Officer or before the appellate authority on behalf of Government for the purpose of refuting claims under that settlement, if any should be brought.

I have the honour to be,

Sir,

Your most obedient Servant,

J. R. NAYLOR,

Remembrancer of Legal Affairs.

B 1417—29 M

# GARDEN CULTIVATION IN THE MA'HIM AND BASSEIN TA'LUKA'S OF THE THA'NA DISTRICT.

In striking contrast with the wide stretches of rice land is a narrow belt of rich garden, never wider, I believe, than 3 miles, running along the sea border of these two *tálukás*. The belt is not continuous, because here and there one or other of the two essential conditions of (1) sweet well water and (2) a light easily worked soil is wanting. The gardens are studded with cocoanut and palmyra palms, and in places divided one from the other by excellent quick fences bounding pretty lanes. The contrast is more striking in the hot weather. Side by side are the bare rice fields with numerous black patches—the nurseries for the seedlings of the coming crop on which the *ráb* has been burnt and the garden belt rich with betel-vines, plantains and sugarcanes.

At Máhim the cultivation of these gardens is peculiarly interesting. The length of the rotation and the regularity with which the crops follow each other are remarkable. In Bassein there is greater variety. I propose first in some detail to describe the course of cropping and the treatment of the various crops at Máhim, and then to show how Bassein differs. My acquaintance with the garden tract is imperfect, and the notes now to be recorded were collected at the towns of Bassein and Máhim, and in their immediate vicinity only. I think however that they will give a fair idea of the conditions of the whole.

## MÁHIM.

There are two chief rotations. The one occupies a period of no less than 7 years. The order, never varying, of the principal crops is (1) betel-vines, (2) ginger, (3) sugarcane and (4) plantains. The other, a 5-year course, only differs in the omission of the betel-vine. The gardens are not large, but vary between 5 and 7 acres—each watered by one or more Persian water-wheels. They are greatly subdivided—a fact due to the expense and difficulty of extension. Each cultivator grows all the crops of the rotation, and, in order that he may profit by a rise in price of any particular product, he divides his land so that he may yearly have plots of each stage of the rotation.

The following abstract will make this clear :—

| Plot. | Aspect in October. | Aspect in May. |
|---|---|---|
| 1 | New vines just planted ... | Vines 6 months old just layered. |
| 2 | Vines 1 year old giving 1st picking of leaves. | Do. 18 months old in full bearing. |
| 3 | Vines 2 years old about to be dismantled. | Ginger just put in. |
| 4 | Ginger crop standing 5 months old . | Sugarcane just planted. |
| 5 | Sugarcane crop standing 5 months old. | Fallow being prepared for plantains. |
| 6 | Plantains about 2 months old ... | Plantains in flower or forming fruit. |
| 7 | Do. which have fruited ... | Fallow just *rábed* for rice or *nágli* seedlings. |

### I.—The Betel-vine (Piper betel).

In the hot season (May) before the vines are planted the whole area is *rábed, i.e.* cow-dung with overlayers of grass, leaves, and refuse by-products of the garden crops spread and burned. With the first fall of rain rice (or in places *nágli*) is sown. As soon as the seedlings have been removed and planted in the fields outside the garden belt, *i.e.* in July, the land is ploughed, cross-ploughed and harrowed with the *áli* (elsewhere called *alvat*). In this region of very heavy rain-fall nothing but easily drained soil with a large admixture of sand could bear this treatment. The rice fields of clay at this time of the year are ploughed and harrowed, it is true, but are meanwhile covered with water. The garden land is easily worked both in the heaviest rain and in the hot season with the help of a little well water, while the rice land is as hard as brick.

The vines are put down in October. The land is marked out into series of alternating ridges and furrows—beds (*arki*) are dug deeper at intervals along the furrows—each about 1 foot square, for the reception of the cuttings. They vary from 3,600 to 5,000 per acre. A rough shelter stage is then erected to protect the young vines. Coarse grass is spread over it. The uprights are bamboos (*bundhis*). One row outside the area to be planted and one upright at each corner of each bed. These latter

I measured a plot 82′ × 68′ = 5·1 *gunthás* and found it to contain 609 beds.

serve also as trainers to the vines. Plantain suckers are planted regularly—one to 4 beds of vines. The cuttings are the top shoots of old vines. Six are put into each bed. The four corner ones are trained up the bamboo standards; while to receive the two others reeds (*kárvis*) are put in when required, *i.e.* in about March.

After the monsoon has set in, the vines are layered. The rough shelter stage is made permanent. Cross pieces of bamboo (*velu*) are firmly tied with locally made coir twine.

An insignificant picking of leaves is secured at this period.

In September an upper stage is added about 5 feet above the lower, which is itself as high from the ground. As the vines grow they are tied with strips of the plantain stem to their trainers. The *bundhis* are long and overtop the upper stage. The *kárvis* suffice to carry the vine only to the lower one. Thence the centre vines are trained to two of the *bundhis*, which thus carry each two vines.

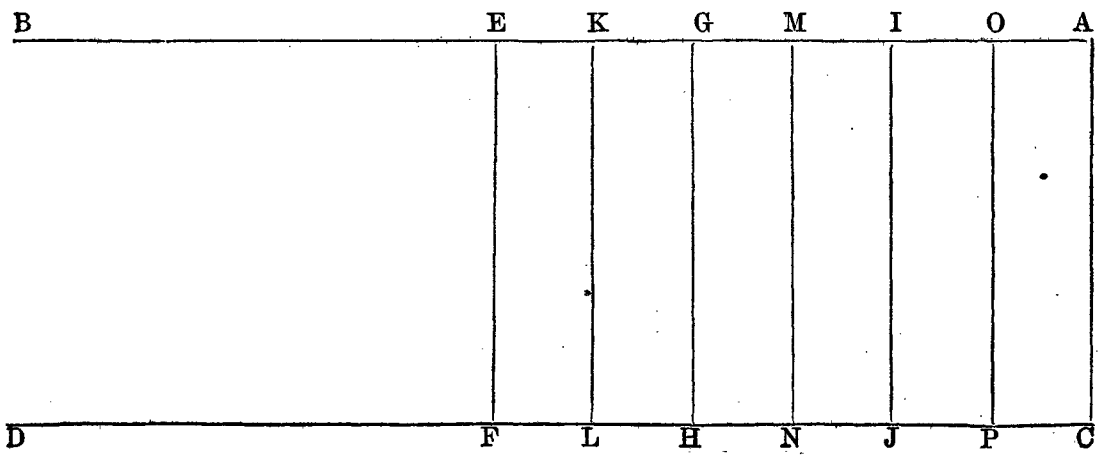
Both stages serve to support the trainers, and the whole frame-work is protected from the violent monsoon winds by transverse stays (rafters of the *bhendi* tree usually) one end resting on the ground and the other on the lower stage. The gardeners mount by the help of these rafters and climb along the lower stage when tying the vines to their trainers or when plucking the leaves.

The first regular crop of leaves is secured in October—just one year after planting. But it is not removed till a buyer appears. After this pickings are made at irregular intervals, as the demand arises, for a full year. Then when cuttings have been taken for the next plot to be planted, the plantation is dismantled. About half of the cross *velus* are fit for use again. But the *bundhis* and *kárvis* only serve as cross pieces for the next temporary shelter stage, and are then burnt.

The plantain is indispensable in a betel-vine garden. It fruits in the monsoon, and is removed, one sucker (*bijkel*) being allowed to grow and replace it. By the time the vines are dismantled this sucker has grown up and fruited and another is ready for the new plot of vines. The variety of plantain grown with the vines is called at Máhim the *Soneli* and at Bassein the *Nársingi*, a long, green, thick-skinned kind which at Máhim is never grown in a regular plantain garden.

## II.—Ginger (Zingiber officinale).

The betel-vines are dismantled at the end of the monsoon and ginger follows. It is put down in May. The land is watered, ploughed, cross-ploughed and harrowed. I watched the operation of planting the sets. The gardener measures the beds with a rod 4 feet long and a line. The line is stretched to the full width of the plot AB, and a furrow dug inside



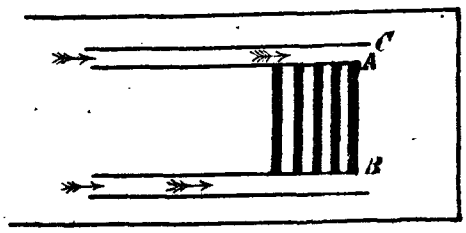

with the garden hoe—an implement peculiar to this tract. The furrow is planted with sets by a man stepping along it, placing a set at his toe, while his heel touches the set put down before. The sets are thus about 10 inches apart. The furrow is immediately covered. From one end (A) a length of 3 rods (12 feet) is measured at right angles and the line stretched from the point reached (C). A furrow is dug parallel to the first made furrow and planted. Cross furrows are then made. First from A to C, then from E to F, one rod (4 feet) apart. These are planted. The intermediate space is divided by the eye, and furrows GH and IJ are made and planted. Each interspace is again divided by furrows, KL, MN, OP. In making these the sets in the other furrows are covered and when made they in their turn are covered. One complete bed is then ready (4′ × 12′) with rows 8 inches apart. It contains just 100 sets. At this rate an acre will contain 90,000 sets. The earth all around the bed is then slightly raised, and a ridge formed by hand. One maund (28 lbs.) of sets is considered necessary for eight such beds. This gives 112 maunds, or 28 cwt. per acre. Turmeric is planted on the ridges surrounding each bed, and when the ginger is about a foot high, *i.e.* in July or August, alternate rows of brinjals and chilies are sown in lines one rod (4 feet) apart with here and there a *konphal* (Yam dioscorea). Brinjals are sown also all round the ginger plot.

The ginger is not dug up till a purchaser appears, generally about February or 9 months after planting. Some gardeners who can afford it, by using more manure force the crop and find a ready sale at a high price as early as November. The weight of the crop is in such a case much less than it would be, if left till February. The haulms of the ginger are used as a *ráb* material, after first being piled round the stems of plantains, as will be described.

### III.—Sugarcane (Saccharum officinarum.)

Next follows sugarcane—of the red variety invariably. It is planted in May. The preparation of the ground is exactly the same as for ginger. The beds are differently laid out. The rod used is 8 feet long. First a width of one rod is taken, and parallel furrows 8 feet long are made to the full width of the plot. The distance from centre to centre of the furrows is about 2 feet. Along the side of each series of alternating ridges and furrows water-channels 1 foot wide are dug. The unit of measurement in cane cultivation is the *ulti*. A *ulti* is half the length of a furrow (*i.e.* 4 feet) and its ridge. The distance between the rows varies slightly with the character of the soil.

In the marginal diagram ridges are shown by thick black lines, and furrows by the intervening spaces AB = 8 feet, AC = 1 foot.




Taking the water-channels into account there are (with rows 2 feet apart) 4,840 *ultis* per acre. The local estimate is 5,000.

The sets, which are canes cut up into lengths of 6 to 8 inches long, are laid along the furrows—about 4 go to one *ulti*. An acre will contain 20,000. As they grow the canes are thinned, and only 5 shoots at most are left to grow up in each *ulti*.

The seed cane is grown separately in rows very much closer together than in the regular crop. As the cane throws out leaves after the thinning, the lower leaves are wrapped round the parent stem and tied. This serves to protect the cane from jackals and prevents side shoots which would weaken the growth.

The standing crop is sold to traders about 9 or 10 months after planting. The sale price is settled per 1,000 *ultis*. But by custom the seller has to count out 1,100 *ultis* after the canes have been cut, and to make up the deficiency elsewhere if that number is not reached in the cut plot.

*Gul* is not made except from damaged cane. The traders take the cane to Bombay.

### IV.—Plantains (Musa paradisiaka.)

Last in the 7-year course comes plantains. As the '*Soneli*' is the variety almost always grown in the betel-vine plantation, so the *Rájeli* (long tapering, and yellow skinned) is the variety grown in the plantain garden. Here and there the *Basrai* is coming into use. It is smaller and of low growth, and does not require props to protect it from heavy wind. The red plantain of Bassein is not seen at Máhím. The suckers are put into the ground, prepared as for the other crops of the rotation, though without watering, in August.

It is a great point to secure the bunch of fruit on the side opposite to that of the prevailing monsoon wind, which is heavy when the fruit is forming. Some gardeners assert that this can be effected by knowledge of the fact that the fruit forms on the side which was nearest to the parent tree and so in planting the sucker this side is carefully turned to the north-west.

The suckers are planted in carefully made lines from 8 to 10-foot lengths apart. Each sucker is equi-distant from the next in the line, and from its neighbour in the adjacent row. Taking the foot length at 10 inches, there will be 600—1,000 trees per acre. The number varies with the soil. In good land the trees are closer. As the tree grows the trunk is protected by rice straw, ginger haulms and the like piled around it. Water is not applied directly, but is collected in small depressions in the centre of the square bounded by 4 trees, and thence sprinkled by hand. Till the commencement of the monsoon following the planting, no supports are needed. But they are required—one to each tree—while the heavy bunch of fruit is forming. When bamboos were obtained free from the forest they (*tokars*) were used. Now however recourse is had to the shoots from pollarded *bhendi* trees. A crop of such shoots strong enough to support the tall plantain tree is got once in four years. They are beautifully straight, and as many as 100 are sometimes obtained from a large *bhendi*. This tree is very plentiful and is being pollarded far more extensively than formerly. Other trees, *e.g. karvati, kánkad* and *pángárá*, have lately been similarly treated, but the results are poor compared with those obtained with the *bhendi*. The shoots are

neither so straight nor so long and do not grow so fast. The pollarded tree does show a gnarled trunk, but the yield in a very useful form is largly increased. The tree gives a crop once in four years instead of one large one when it is cut down, and there appears much in the contention of the people that similar treatment of forest trees to increase the available fuel supply is worth consideration. *Tokar* props last three years. The *bhendi* prop lasts as long, if it is let into the ground. It has however after one year to be taken to another plot and lasts for 2 seasons as a dead prop. The use of the *bhendi* for betel-vine cultivation in lieu of dead supports, which necessitate so short a life to the vine, at once suggest itself. But it does not seed in this tract and therefore cannot be grown as *pángárá* and other trees are in Dhárwár, &c., for betel-vine trainers. If small cuttings are planted, it is said that they grow slowly and do not keep pace with the vine.

The plantain grower seeks to cause the trees in a plot all to ripen fruit simultaneously. This is secured (with the *rájeli*) by selecting suckers of the same age. The plantain bears its fruit in the monsoon. It is said that the Máhim sailors used to be venturesome enough to take boat-loads by sea. But now the produce is sent by rail.

The plantain is liable to disease as all other plants are. But if one dies, it is still carefully propped in its place lest a gap should be open for the fierce wind to the destruction of healthy neighbours.

The plantain garden is dismantled in November. The stem is stripped for twine and the midrib of the leaves gives a particularly strong ligature used to bind together the buckets of the water-wheel. All otherwise useless portions find their way to the *ráb* bed. The rotation is now completed. It fills a period of 7 years, and begins again with the *rábing* of the plantain area in the next hot season. For this *ráb*, the only material which has to be brought from outside the gardens is grass, but owing to the abundance of leaves the amount of grass required is not very large. At Máhim sugarcane stalks from which the juice has been squeezed are not available as the cane is exported whole.

The rice and *nágli* seedlings raised on the *rábed* area are often taken to great distances to the fields outside the garden belt. A sort of draw sledge is used, which is easily drawn over the embankment of the rice fields. Those rice fields which adjoin the garden area are styled *khál*, literally "below." In this *khál* when water from the well in the garden is available, sweet potatoes are grown.

The 5-year course differs only in the absence of the betel-vine. It is practised where the vine does not succeed well.

### *Manuring.*

The almost universal manure is castor-oil cake imported by boat (chiefly) and by rail from Gujarát. Cow-dung and vegetable refuse are used for the periodic *rábing* of the garden plots as described above. The manure is paid for in cash by those who can afford it, but the poorer gardeners are supplied by traders who charge a heavy interest. It appears to me that there is an excellent opening for an artificial manure in this tract such as that patented by Professor S. Cooke of the College of Science, Poona.

### I.—Betel-vines.

In December when the cuttings begin to throw up shoots a very small amount is applied to each bed (*arki*), *viz.*, ½ a *tipri*, or 3½ *tolás* in weight. This comes however to 350 lbs. per acre. The second application is made when the vines have started into fair growth and require support, *i.e.* when the *kárvi* uprights are put in. In amount it is double the first dose. When the vines are loosened, coiled and layered, a still larger application—double the last—is required. The gradual increase to this maximum regulated by the capacity of assimilation by the vine is noteworthy. From this time till about a month before the last crop of leaves this application is repeated. In all from 15 to 20 doses are given and the total per acre comes to from 9⅕ to 12½ tons or from 35 to 48 local candies, costing Rs. 8 per candy, *i.e.* no less than from Rs. 280 to 380 per acre.

### II.—Ginger.

This crop is manured thrice, *viz.*, in July, August and September, at the rate of 3 lbs., 3¾ to 4½ lbs., and 4½ to 6 lbs. per bed (*vápha*). The cost is from Rs. 136 to Rs. 166 per acre and the amount from 4½ to 5½ tons. The larger amount is used when the crop is forced for an early market in November.

### III.—Sugarcane.

Three applications are made in the same months as for ginger. The amounts are per 100 beds (*ulti*).

| | By measure. | By weight. |
|---|---|---|
| 1 *adholi* (measure) of cake = 3 lbs. | 1st—10 adholis. | 1 maund. |
| 1 maund = 28 lbs. | 2nd—11 „ | 1¼ „ |
| | 3rd—12 „ | 1¼ „ |

The manure is always bought by weight, but is applied sometimes by measure and sometimes by weight. The results are practically the same and come to a little over 8 candies or $2\frac{1}{5}$ tons per acre, costing Rs. 66.

## IV.—Plantains.

This crop receives manure twice—once shortly after planting and again in November, or else thrice in September, October and January. In the former cases the amount per tree each time is 3 lbs. In the latter it is $1\frac{1}{2}$ lbs., $2\frac{1}{4}$ lbs. and $2\frac{1}{4}$ lbs. respectively per tree. The cost and amount per acre will be—

| | | | | |
|---|---|---|---|---|
| 600 trees | ... $1\frac{1}{4}$ tons | ... Rs. 45 | a. p. | |
| to | to | to | or 1 2 | per tree. |
| 1,000 trees | ... $2\frac{1}{2}$ tons | ... Rs. 75. | | |

### *Watering.*

All irrigation is from wells which are either built in masonry with a diameter of about 13 feet or else are wide hollows with sloping sides. The latter are called *bávkhals*. The water-lift is the Persian wheel (*rahát*). It costs about Rs. 400 to erect a wheel over a *bávkhal*. All the parts which are exposed to the rain, or which dip into the water must be of *khair* wood (Acacia catechu). The main shaft (*chát*) which joins the revolving wheel (over which the buckets lie) to the vertical toothed wheel, is a strong straight *khair* beam—over 12 feet in length. The upright shaft (*ubhak*) of the horizontal toothed wheel is also of *khair*. The bullock (or buffalo) works at the end of a lever attached to the *ubhak*. The length of the main shaft regulates the distance between the pair of cog-wheels and the water-wheel, and so in the case of the *bávkhal* a heavy platform is required in the centre of which is the *ubhak*. This platform is supported by 9 *khair* posts to raise it to the level of the centre of the water-wheel, and above the highest water level. Two large *khair* posts support the outer frame-work of the water-wheel. These last only are required in the case of a built well, for then the animal walks on firm ground. Wells can only be substituted for *bávkhals* when the water-supply is good—which is rarely the case. But they are being substituted owing to the increasing difficulty of obtaining wood—which once was taken free of cost from the forests.

**Improvements in the Persian wheel.**

**Mr. Dándekar's chain pump.**

Both in Máhim and in Bassein improvements in the gearing of the lifts are being tentatively tried. At Máhim Mr. Dhondo Vináyak Dándekar has introduced a chain pump worked by an iron shaft to the outer end of which is attached a small iron cog-wheel, working into the horizontal wheel to which the lever is attached. This effects a great saving and probably will deliver a larger quantity of water in a given time and at a given cost. Its working is being watched with interest, and imitation will surely follow if the improvement stands the test of long trial. The improvement can be utilized both in the well and the *bávkhal*, but it does not do away with the necessity of the huge platform in the case of the latter. The Bassein improvement lays claim to the merit of abolishing the platform. The inventor,

**Mr. Marátha's modification.**

Mr. Rámbháu Marátha—a man of undoubted mechanical genius—which has exhibited itself in many directions does away with the main shaft altogether. The axle of the water-wheel instead of being continuous with the main shaft is at right angles to its direction. The wheel works towards the centre of the bullock gear instead of in the plane at right angles to it. Over the wheel is a heavy rope—the substitute of the main shaft. The rope which is endless is brought round a horizontal grooved wheel resting on a strong upright post permanently attached to it. A lever is fixed into the post below the wheel and to this the draught is attached. Friction keeps the rope from slipping. This improvement has already been adopted in 3 places at Bassein. The danger appears to be that, when the groove has been worn smooth, the rope will not bite; but the inventor says that this can easily be avoided. The substitution of the rope for the shaft makes it possible even in the case of the *bávkhal*, for the animal to work on firm ground.

The cost of the whole apparatus, including the platform, in each improvement is calculated to be under Rs. 100.

**Unsuitability of the Burgess' Bucket Lift.**

At first sight I thought that the Burgees' bucket lift would fill a great want in this garden tract, but further study showed that it is unsuitable.

First the water-supply of the wells is generally very small and the bucket lift could not work at any rate with profit as the Persian wheel or chain pump can in water less than 1 foot deep. Secondly, with the Burgess' lift the bullock works on a stage covering the mouth of the well. It would cost a great deal to cover a built well or to erect a stage in the centre of a *bávkhal*. Still by digging a small well beside the large one and by joining the two at the bottom by a pipe, the Burgess' lift could be used, provided the water is sufficient to make its superior lifting power pay. After this digression, I proceed to describe the irrigation of the various crops of the rotation.

I.—Betel-vines.

From the end of the rains the vines are watered every 6 days, till the first application of manure. From the 3rd day after this manuring till the commencement of the succeeding rainy season each bed is watered once in 3 days. In breaks during the monsoon the watering is continued, and after its close till the last picking.

II.—Ginger.

The land is watered to make ploughing easy. Next day while the moisture still remains the sets are planted. Watering is continued from that time at intervals of 3 days as in the case of the vines till the crop is ripe.

III.—Sugarcane.

Water is required to soften the ground for ploughing, and on the day after the sets are planted—again 3 days afterwards. After this every 6 days, unless there is rain, till the crop is pulled.

IV.—Plantains.

As soon as the rains are over the garden is thoroughly cleaned of weeds, and the water-channels made. Watering is required every 5 or 6 days. The quantity of water given to plantains is greater than that required by the other crops of the rotation.

In busy seasons (as May) the water wheels are worked night and day, by each sharer in the garden, in his turn. On the average 4 acres of garden are watered from one well.

**General Remarks.**

The gardeners live in very well built houses always in the midst of the garden. Those who have capital are very well off. Most own rice land. Those who do not, cultivate land belonging to those classes who sublet. I saw one of the best farms in Kelva, which adjoins Máhim. Nothing could exceed the cleanliness of the cultivation. The plough cattle—chiefly he-buffaloes—are in good condition, and the byres are better than I have seen elsewhere. In the particular farm referred to the flooring is made of split logs of the cocoanut palmyra palms—with the rounded part uppermost—placed on the slant to secure drainage. The upper side is open to the inner part of the house, where the gardener sleeps with his cattle in sight.

The absence of live standards in the vine cultivation and the use of bamboo branches and tops for fencing the gardens, are points in which I believe improvement is feasible. The dead standards only last long enough to give the vine a short life of 2 years, and in order to make it repay cultivation it is forced by very heavy manuring to bear its first crop in 12 months, and to yield during the cropping season enough to cover the very heavy expenses incurred. Then its supports rot and give way. With live standards I firmly believe that large saving of manure without diminution of profits could be effected—for there is no reason why the vine should not bear for at least 5 years. The margin of profit would probably be greater, for the frequent erection of stages together with the cost of carriage of material, added to the price could be avoided. Again as regards fences—in Bassein every garden is surrounded by strong quick fences—chiefly of *karvand* (Carissa carandas). These last for generations, and the trimmings made once in 3 years, form a valuable addition to the *ráb* beds. Properly cared for the hedges do not rob the gardener of any of his valuable land. In Máhim all the fences are made of the otherwise useless parts of the bamboo. But they require removal every year at a considerable cost of labour and carriage, and at best give a miserable fence. All climatic conditions are identical at Máhim and Bassein, and I see no reason why the hard-working Máhim gardener should incur the expense he now incurs in clinging to his wretched fence, when it is in his power to raise a lasting and beautiful quick hedge. All the gardens are interspersed with the betel, cocoanut and palmyra palms. Now and then fine jack fruit trees are seen and less often tamarinds. The fences are lined with *bhendi* trees and all vacant spaces round wells and houses grow this useful tree.

SHIRGAON GARDENS.

The description above given refers to the large villages of Máhím and Kelva. I visited the next village Shirgaon and was struck with the contrast. The difference is due to deficiency of water in the wells, and to a greater admixture of sand in the soil. Here there is

**Crops in better land.**

no regular rotation. In better land plantains, chiefly of the *Mutheli* (short, plump, sweet and yellow skinned) variety are grown with manure and irrigation. The garden is kept 2 years under plantains, suckers being allowed to replace those which have fruited. At Shirgaon this variety of plantain seldom requires props. It does not grow so tall as elsewhere. In the hot season, after the second crop of plantains has fruited, the ground is cleared and *rábed*. Rice seedlings are raised, and radishes put in about October. Else the land is left fallow. The year after *tág* (Bombay hemp, Crotolaria juncea) or *udid* (Phaseolus radiatus) are sown as a late rain crop without irrigation or manure. After this the land may be able to receive plantains again or sometimes chilies (Capsicum frutescens). The plants are raised in a nursery (sown in September), and planted out in about 6 weeks. They are watered every 4 days—the first watering being given 3 days after planting. The crop is manured once with a mixture in equal quantities of (1) sheep or goat-dung, (2) dried fish pounded, (3) castor-oil cake—in December or January. The plants are put in regularly in rows 3 feet apart—not by measurement. In the row the distance between the plants is about 2½ feet. Six plants, 3 in

each of two adjacent rows form a bed (*bándhni*). In each bed a plantain sucker is set. Three *adholis* (1 *adholi* = approximately 3 lbs. in this case) of the mixture are applied per bed. Half is put around the plantain sucker and the rest near the roots of the chili plants. Water-channels are dug round every 4 beds, and on the sides of the channels *vángis* (Solanum melongena) are sown.

[I noticed that in many gardens the *vángis* were attacked with a parasite of the Broom rape family. It is very common on tobacco in Gujarát and the Southern Marátha Country and on *vángis;* in fact as pointed out by Dr. Shortt of Madras attacks all the Solanaceæ. Strange to say it is not well known in Bassein, and is said by the people to have been unnoticed till recent years. It has no name with them. In Gujarát it is called *vakumba*. It is called *bambaku* in the Deccan.]

Sugarcane is grown sparingly. *Gul* is not made. Its cultivation is very similar to that of Máhim. Manure applied twice or thrice, if the crop shows signs of distress. The manure is oil-cake.

Crops in the poorer land.

The poorer land is never *rábed*. It is too sandy. I did not record full notes for the cropping. *Vángis* are grown followed in the early rains by turmeric interspersed with yam-vines (Dioscorea—Konphal). In each bed of turmeric (irrigated and manured) about 5 feet square two vines are put down in the water-ways. A *bhendi* prop is placed half way between them, and both vines trained on to it. Next year *tág* is grown as a rain crop without manure, or else after a fallow till August or September, *udid* is sown. The former crop after it has seeded is sold standing to fishermen, who cut it to make fibre. The *udid* is cut green as a cattle fodder in the hot season. These are both restorative crops. Next year if a fallow is not necessary radishes are sown in October. Next year again only *tág* or *udid* are possible and then *vángis* are taken again.

Sweet potatoes are grown extensively in the rice fields (*khál*) adjoining the garden area and so capable of irrigation from the garden wells. They are put down in November and lifted in May. Onions are sometimes grown in similar land.

## BASSEIN TÁLUKA.

The garden area in the Bassein *táluka* is very much more extensive than in Máhim. There are gardens in 29 villages. My observation was limited. Numerous varieties of plantains are grown—the best known of which is the red plantain, which is a great favourite. Sugarcane is also largely cultivated, but betel-vines in a smaller proportion than in Máhim and with considerable differences. The gardeners are chiefly Christians. The first remarkable point is that the gardeners divide themselves into (1) betel-vine, (2) cane and (3) plantain growers, and show much reluctance to give even the most ordinary information about any but their own special crops. Some few combine these staples but keep the cultivation of each quite distinct, and exhibit a remarkable departure from the sustained rotation of Máhim and Kelva.

The betel-vine is grown continuously. Cuttings from old vines are planted in October after a crop of rice or *nágli* seedlings has been raised on the area *rábed* during the previous hot season. In the June or July following the vines are layered. The first crop of leaves—save a small picking made before layering—is taken in August. Pickings are made monthly or oftener for 15 months. The best vines yield 20 and the poorest 12 pickings in all. The plantation is dismantled in December and till the new plantation is made in the October following, the land lies fallow except for the catch crop of rice or *nágli* seedlings raised in the early monsoon after *rábing* in the hot weather. Each gardener divides his land into 3 plots, so as to have a new plantation yearly. In Bassein instead of an upper and lower stage, a single stage is erected. There is less regularity in the planting than at Máhim, though the gross number of vines per acre is about the same. Instead of placing the cuttings in small beds at intervals, they are arranged on either side of small furrows 6 feet long, at distances of about 10 inches apart. The ridge between the furrows is wide. The centre of one furrow is 4 feet from that of the next. Water-channels (1 foot wide or more) run along each side of a series of alternate ridges and furrows, and each ridge is divided half way to form a small distribution-channel. The double row of vines along a furrow is called a *haral*. There are about 600 *harals* per acre. The leaves are packed for sale in packets (*katal*) of 50 leaves, and the baskets in which the leaves are sent by rail contain from 120 *katals* of large to 160 of small leaves. The manure is castor-oil cake, at the rate of 6 lbs. per *haral* at six different intervals or 10 tons per acre—costing Rs. 300; and the irrigation from Persian wheels.

### PLANTAINS.

The varieties are 1 *rájeli*, 2 *basrái*, 3 red (*támbdi*), 4 *mutheli*, 5 *nársingi*, 6 *bankeli*, 7 *goyagiri*, 8 *karjeli*. All these except the *basrái* grow very high—15 to 20 feet, and require props during the fruiting season. The *basrái* is of recent introduction. It needs no props and is much liked.

The distances apart at which the principal varieties are planted are measured by foot lengths which may be taken at 10 inches :—

| | Distance from Tree to Tree. | No. of Trees per Acre. |
|---|---|---|
| *Basrái* ... ... | 6 Feet ... ... | 1,200 |
| *Rájeli* ... ... | 7 „ ... ... | 900 |
| *Nársingi* ... ... | 8 „ ... ... | 700 |
| *Támbdi* ... ... | 10 „ ... ... | 450 |

*Manuring.*

The red variety takes the most manure—1 *adholi* (3 lbs.) of oil-cake per tree—at each dose. The others receive only half this amount. Moreover the red are manured 4 times and the others three:—

| | Cost per Acre. | Amount of Manure. |
|---|---|---|
| *Basrái*... ... | 72 Rs. for | 48 Cwt. |
| *Rájeli* ... ... | 54 „ | 36 „ |
| Red ... ... | 72 „ | 48 „ |

The first two are sold wholesale at about Rs. 30 and Rs. 40 respectively per 100 bunches (*longar*) *i.e.*, per tree. The red plantain gives a much larger bunch. Wholesale they fetch Rs. 80 per 100 bunches—while retail they fetch as much as Re. 1 per 100 plantains in season The *rájeli* is the only variety from which dried plantains are made (Thána Gazetteer, Vol. I., p. 292).

The increasing cultivation of the *basrái* is due to several facts—

1. The great saving in the props required for other kinds;
2. The increased demand for a sweet cheap plantain;
3. The saving in cultivation—less water—larger number of trees per acre.

Whereas the other varieties require water every 6 days, the *basrái*, preventing evaporation by the extent of leaf and thorough shelter due to its compact growth, needs irrigation only once in 8 days.

It is alleged that the *rájeli* is by far the most remunerative kind, but that its cultivation is diminishing in favour of the *basrái* on account of the charge made for standards. There is however ground for thinking that the *basrái* variety is the more remunerative, and as its value is becoming better known its cultivation is extending. No doubt the saving in standards is very considerable. If the cultivation of the *rájeli* variety can only be made to pay by the supply of props free of cost it should and must be abandoned, or else the people should pollard the *bhendi* as is done at Máhim, but not in Bassein.

The suckers are set out in June. The fruit is ripe in about 12 months, but some trees go on ripening till November. The stumps are cut down in January or February and the roots removed. The whole area is then *rábed* and a new plantation is made in June or July. Rice or *nágli* seedlings are raised in the intervals between the young suckers. In some places the new plantation is delayed a year. When this is the case the *rábing* is also delayed and a crop of *vángis* is taken, or else *udid* as a fodder crop.

*Sugarcane.*

This crop is grown once in 3 years. After the crop is pulled in the hot season (May) one year after planting, a crop of rice from seedlings raised elsewhere is taken. The rice is followed by a late crop of *wál* or *udid* for fodder. When the fodder has been consumed, the land is *rábed* and in the next monsoon rice seedlings are raised and followed by a rice crop in the same area. This is reaped in November, and is quickly followed by *udid*, gram or sweet potatoes. The last require irrigation. In the April or May following new canes are planted. The cane is laid down as at Máhím, but instead of being cut after 9 months is allowed to mature in 12. It is then pulled and *gul* is made. The crushed cane is the most important constituent of the *rább*, which once in the rotation of 3 years is burned on the sugarcane land. The manufacture of *gul* is made with the use of fuel fetched at privileged rates from the forest lands. The juice is boiled down in a deep narrow copper pan, which experiment clearly showed to be far from economical in fuel, when compared with the wide shallow iron pan used in Gujarát and the Deccan, where fuel is much more scarce and where no privilege rates are known.

The quality of the *gul* is very good, and the merit of lasting a long time without becoming soft is claimed—a merit which I am now testing. The variety of cane is red. The unit of measurement is the bed (*ulti*) as at Máhim. About 3 tons of oilcake costing Rs. 90 are said to be used per acre. The first application is made when the shoots are about 2 feet high in July. At this time the plants are earthed up, the furrows being converted into ridges. The manure is spread along the furrow before it is closed. The second application in September is made when the lower leaves are wrapped round the stem and tied. On this occasion the manure is sprinkled round the roots of each plant by hand.

The first watering is given as at Máhim, to soften the land for ploughing. A few days afterwards the land is ploughed 5 or 6 times in different directions and then levelled, and the furrows dug to receive the sets. Immediately afterwards water is again let on, and the canes are irrigated once in about 8 days till the crop is pulled, except when there is rain.

The cane is pulled in the early morning, and topped and stripped on the spot. The tops are used as fodder. The dry side leaves go to the *ráb* bed. In a plot of 2 *gunthás* of fair average cane I found 1,428 canes weighing 3,446 lbs. or 2·4 lbs. per cane ready for the mill, and 122 canes weighing 105 lbs. immature and badly coloured. These latter are used to make molasses (*kákvi*) coarse sugar. The tops from the same area weighed fresh 710 lbs.

*Results per Acre.*

| | Weight. |
|---|---|
| 28,500 good canes topped and stripped ... ... | ... 30 tons. |
| 2,500 immature canes ... ... ... ... | ... 1 „ |
| Tops for fodder ... ... ... ... | ... 7 „ |
| Juice for *gul* 65 per cent. on weight of cane ... | ... 20 „ |
| „ *kákvi*... ... .. ... ... | ... ½ „ |
| *Gul* 16¼ per cent. on weight of juice ... ... | ... 3¼ „ |

This last percentage is very variable. The figure here given is for good average cane pulled at the most favourable time. I did not ascertain the amount of molasses and sugar made from the *kákvi*. The sugarcane growers make vinegar from the cane sufficient for home consumption, but it is very sweet and inferior and would not pay if made for sale.

*Ráb.*

A short paragraph on the practice of *ráb* in connection with the garden cultivation appears advisable. The invariable use of *ráb* as the first step towards preparing the land for a new course of cropping must have been noticed, as also the fact that where plantains are grown the *ráb* is burned when that crop has been reaped. I have not found a satisfactory explanation why this is so, but I have no doubt that there is a good reason. Again it has no doubt been noticed that *ráb* is not burned on the poor sandy garden land of Shirgaon. This fact is in complete accordance with the objects of *ráb* as far as they have been ascertained. The *ráb* is used also to raise seedlings of rice and *nágli* for planting out in land outside the gardens. Where *gul* is made from cane, the crushed cane is one of the most valued materials. Generally speaking either cowdung or crushed cane forms the principal layer. No *táñál* (boughs and other loppings) is used on the coast except the trimmings of hedges. All otherwise useless by-products of garden crops find their way to the *ráb* beds.

About 1½ times as large a seeding of rice is required for poor *ráb, i.e., ráb* where *táñál* or cowdung does not constitute the principal layer, as for good *ráb*, and moreover in the former case a top dressing of the seedlings with castor-oil cake or dried fish (*kuta*) is generally found necessary in addition to the *ráb*.

A considerable area of salt marsh rice land adjoins portions of the garden belt. Where the proportion of salt is small, the land is picked in the hot season with *kudavna*—a long handled pick—by hand, and left in the rough. The seed is sown with the first fall of rain. Seed—the partial germination of which has been artificially induced, only is sown. Where the land is very salt it is not touched till it is well covered with water. It is then stirred with the bullock hoe and sprouted seed thrown on the surface of the water. It falls to the bottom and takes root. It stands complete immersion for as long as 10 days.

In some cases the seed is sown on the fields covered with water over a foot deep. The variety of rice is a red one, considered especially nutritious by the poorer classes.

No fact connected with *ráb* in this garden cultivation gives any support to those, who have characterized *ráb* as a resource of a slovenly wasteful cultivation. Far from it, for here we find *ráb* the regular recognized practice, in a tract of unusually high and excellent cultivation.

E. C. OZANNE,
Director of Agriculture, Bombay.

*20th July 1886.*

## NOTE ON EXPORT OF GRASS FROM DAHÁNU ROAD STATION.

Having been permitted by the courtesy of the Station Master of Dahánu Road, B. B. and C. I. Railway, to examine the export returns of grass from that station to Bombay and other places during the past season, we record the result as follows for the information of the other members of the Forest Commission :—

*Green Grass.*

One hundred and sixty-seven wagons containing 109 maunds equal to 4 tons each were exported from Dahánu Road between the 5th September and 31st October 1885.

*Dry grass* 123 wagons containing 81 maunds and 30 seers to 3 tons each have been exported from Dahánu Road from 31st October up to the 6th March 1886.

In all therefore the export of grass from this station during the past season has amounted to $167 \times 4 + 123 \times 3$ tons equal to tons $668 + 369$ tons equal to 1,037 tons. Had the green grass been kept till it became dry the weight of the grass exported would have been (167+123 tons) $\times 3$ equal to 870 tons.

We were informed that each wagon carried of dry grass from 3,000 to 4,000 bundles. As the full freight of each wagon of dry grass is 3 tons equal to 6,720 lbs. the average weight of each bundle may be taken as a little under 2 lbs. An actual weighment of ten bundles selected at random from a heap of grass lying in the station ready for export, gave an average of $1\frac{3}{4}$ lbs. per bundle. At this rate, *viz.*, $1\frac{3}{4}$ lbs. per *puli* or bundle, each wagon, fully loaded, contains 3,840 bundles. Up to date, therefore, the total export may be put down as (167+123) $\times$ 3,840 bundles equal to 1,113,600.

If we assume that the average yield of one acre of grazing land is 2,000 bundles of an average weight of $1\frac{3}{4}$ lbs., it follows that the entire grass produce of 556·8 acres has been exported from lands in the vicinity of the Dahánu Road Station to Bombay and other places with a corresponding loss of fodder for cattle and material for *rán* cultivation to the population within the area laid under contribution.

It must further be noted that the grass export season for the crop of 1885 has not yet ceased.

*11th March 1886.*

G. W. VIDAL.
R. C. WROUGHTON.

*Statement containing a Prècis of Correspondence regarding the Forest Rights of Occupants and the Government in the different Tálukás of the Thána Collectorate prepared by Mr. E. J. Ebden, Forest Settlement Officer, Thána, and submitted to Government with a Memorandum from the Commissioner, N. D., No. 3608, dated 18th October 1882.*

| Year. | *Táluka* in which Survey Settlement was introduced. | Provision regarding Trees made at the time of the Settlement. |
|---|---|---|
| 1854-55 ... | Khálápur *peta* ... ... | Joint Rules promulgated by Francis with modification of Rule X. reserving trees* under conservation of the Forest Department. |
| 1855-56 ... | Karjat ... ... ... | Ditto ditto. |
| 1856-57 ... | Panvel ... ... ... | Ditto ditto. |
| 1858-59 ... | Kalyán ... ... ... | Francis instructed *mámlatdár* that lands were to be devoted to the purposes assigned in the Settlement Records. No distinct orders about trees were passed. |
| 1859-60 ... | Murbád ... ... ... | No orders traceable. In No. 371 of 1862 (Murbád Survey File) Francis refers to Joint Rules as being in force in Murbád. |
| 1860-61 ... | Bhivandi ... ... ... | Francis instructed *mámlatdár* that waste lands had been divided into free grazing, &c., and that the people were not to exercise in them customs other than those indicated in the records. Printed Rules would follow. |
| 1860-61 ... | Sálsette ... ... ... | No orders traceable.† |
| 1861-62 ... | Bassein ... ... ... | Instructions corresponding with those issued in Bhivandi were given. |
| 1862-63 ... | Máhim ... ... ... | No orders traceable. The disposal of the rights of Government under Ellis' Rules appears to have been effected by the Survey Officers simultaneously with the Settlement.‡ |
| 1863-64 ... | Umbargaon *peta* ... | No orders traceable. Government have decided in Resolution No. 1573 of 8th March 1882 that the provisions made at the Dahánu Settlement apply to Umbargaon. |
| 1864-65 ... | Sháhápur, Váda ... ... | Excepted from the operation of Ellis' Rules and all trees reserved. Free use for domestic and agricultural purposes of all wood, but teak, *tivas*, blackwood and bamboo being given in all lands save Imperial forest; bamboo allowed for domestic use. |
| 1865-66 ... | Mokháda ... ... ... | |
| 1866-67 ... | Dahánu ... ... ... | Trees in *varkas* reserved, rayats being allowed to cut for domestic and agricultural uses in *varkas* all trees but teak, blackwood and *tivas*.§ |
| 1869 ... | Uran *peta* ... ... | No orders traceable. |
| 1874-75 ... | Karjat ( *Varkas* Revision.) | See remarks, column 2, page 125. |

*, †, ‡, § Vide remarks, column 1 *infra* page 125.

REMARKS.

| 1 | 2 | 3 |
|---|---|---|
| | | *Joint Rules.* |
| * These were timber trees, the cutting and export of which for firewood was prohibited. They are probably included in the following list:—(1) Teak, (2) *Sisu*, (3) *Ain*, (4) *Khair*, (5) *Hed*, (6) *Nána*, (7) *Dhávda*, (8) *Kalam*, (9) *Asána*, (10) *Bibla*, (11) *Kinjal*, (12) *Jámb*, (13) *Shivan*, (14) *Tivas*, (15) *Koshimb*, (16) *Kinai*—regarding the preservation of which orders issued by Dr. Gibson in the year of the introduction of the settlement are on record, viz., to Khálápur *Mahálkari*, No. 50 of 30th November 1855, and to Sánkse *Mámlatdár*, No. 69 of 29th September 1885, or which are mentioned in Forest Schedules of about that period as woods that were not allowed to be cut for firewood (Timber Files, 1857, 1858.) | *At the Karjat *Varkas* Revision Survey of 1875 the same reservation was maintained with respect to the new *varkas* numbers by *sherás* written on the Survey Registers. | In 1855 Francis introduced the Joint Rules (with modification of Rule X. only) into Khálápur, in 1856 into Karjat, and in 1857 into Panvel.<br><br>In 1858 he informed the Collector that Rule II. of the Joint Rules had not been applied to Thána and recommended that it should not be applied (No. 588 of 31st December 1858). The Revenue Commissioner informed the Collector to the same effect (No. 743 of 30th April 1859).<br><br>In 1860 Francis submitted to Government a translation of the Joint Rules, which was printed by order of Government in January 1861. Rules II., X. and XI. were not modified.<br><br>2,500 copies were sent to Thána for distribution and were promulgated in (1) Kalyán, (2) Bhivandi, (3) Bassein and (4) Máhim and are believed to have been in (5) Murbád, (6) Sálsette and (7) Umbargaon.<br><br>In 1862 the Collector (No. 238 of 4th February 1862) and the Revenue Commissioner (No. 2545 of 13th October 1862) stated that the Joint Rules regarding trees had not been applied to the Konkan.<br><br>In 1868 Government Resolution No. 2097 of 27th May stated that Rule XI. of the Joint Rules was not in force in Thána.<br><br>The District Court has twice or thrice decided that the Joint Rules were introduced and that the modifications made by Francis were *ultra vires*.<br><br>The High Court in the Pendse case have found that they were either not introduced at all, or were introduced with modifications.<br><br>Under Section 40 of Land Revenue Code they must be held to have been indroduced. |
| † Mr. Bell, 1st Assistant Collector, in December 1861 raised question of ownership of trees in Sálsette *varkas* numbers Francis considered Joint Rule XI. applicable. Collector (No. 238 of 4th February 1862) stated that Joint Rules relating to trees were not applicable to Konkan, and Government rights should be maintained. | | |
| ‡ Correspondence with Conservator ended in his recommending that people be told that future custom would be regulated by orders of Government on report of Forest Committee of 1863. In his No. 160 of 26th January 1871 he refers to the reservation of teak, blackwood and *tivas* in Máhim (File Plaints, 1870, page 1469). | | |
| § No further reservation in occupancies seems to have been made. See my No. 104 of 10th August 1881. | | |

REMARKS—*continued.*

| 4 | 5 |
|---|---|
| *Ellis' Rules.* | *General Conclusions.* |
| ELLIS' RULES were issued in October 1862. Their principle was approved of in Government Resolutions Nos. 1945 of 15th June 1863 and 1106 of 23rd March 1864 (paragraph 8).<br><br>They were sent to the Assistant Collectors with Collector's No. 2449 of 5th November 1862 with the request that certain returns should be prepared of numbers containing fruit trees in which Government had a share and of numbers that were or ought to be reserved to forest on account of the teak and blackwood in them.<br><br>The letter contained no instructions as to junglewood.<br><br>In Sálsette Mr. Bell seems to have carried out the disposal of trees under these Rules, the proceeds (Rs. 11,000) being credited to the Local Fund under Government Resolution No. 4254 of 27th November 1863.<br><br>In No. 1075 of 4th July 1863, Collector asked for report of progress.<br><br>The First Assistant reported in No. 116 of 4th July 1863 that some statements regarding numbers were ready and the matter would be attended to at *jamábandi* of Kalyán, Murbád and Nasrápur.<br><br>I have not found any other reply, but in No. 164 of 22nd November 1864 the Collector reported that the proceeds of disposal of Government rights during previous year had been Rs. 5,360.<br><br>In Máhim the rules were brought into effect by the Survey Officers concurrently with the survey. That they were introduced in Bhivandi appears from Francis' No. 429 of 1866 at page 425 of Vol. XCVI. of Selections. Generally, that retrospective effect was given to them appears from paragraph 21 of the Report of the Committee of 1863 and from paragraph 8 of Government Resolution No. 1106 of 26th March 1864.<br><br>An expanded vernacular version of the Rules was received from Mr. Ellis in January 1863, which provided that where the junglewood was valuable the Collector should decide whether to sell it or give it up gratis. This version was before Government when Government Resolution No. 2097 of 27th May 1868 was published, which was followed by Government Resolution No. 3827 of 13th October 1868 directing the Collector to give effect to Mr. Ellis' Rules to the extent indicated in No. 2097. The "extent indicated" appears to be the getting rid, under the Rules, of the Government right in trees in rayats' lands, with permission to the rayat to cut them at pleasure excepting in the vicinity of reserved forests, *i. e.*, Government forests. | Taking into consideration the provisions of Sections 40 and 44 of the Bombay Land Revenue Code and of the Rules under the Indian Forests Act, the following general conclusions may be drawn:—<br><br>I.—Teak, blackwood and sandalwood belonging to Government except in cases where purchase was effected or special concession made by or to individuals, no general concession by clear and express words having been made in respect of these trees.<br><br>II.—Fruit trees belong to the occupant unless the produce or share thereof is received by Government, in which case the occupant has option of purchase at a valuation under Government Resolutions Nos. 52 and 535 of 1875.<br><br>III.—Junglewood—<br>(*a*). In Karjat and Khálápur *peta* and Panvel timber trees, which are represented by the kinds mentioned in Remark Column 1, are reserved to Government unless the occupant can show that under Ellis' Rules they have been bought by or specially conceded to him.<br>(*b*). In Kalyán, Bhivandi and Bassein the right belongs to the occupant, the Joint Rules having been introduced in an unmodified form.<br>(*c*). In Murbád and Sálsette the presumption is that the Joint Rules were introduced in the same unmodified form, these *tálukás* having been settled concurrently with Kalyán, Bhivandi and Bassein.<br>(*d*). In Máhim Ellis' Rules having been introduced by the Survey Officers the presumption is that each case was disposed of under those Rules.<br>(*e*). In Sháhápur, Váda and Mokháda *peta* all trees were reserved, the privilege of use for certain purposes being conceded, but not that of cutting for sale or profit.<br>(*f*). In Dahánu and Umbargaon *peta* trees in *varkas* only were reserved, the privilege of use for certain purposes being conceded, but not that of cutting for sale or profit.<br>(*g*). In Uran *peta* the Survey Rules of 1869 apply. |

REMARKS—*continued.*

| 4 | 5 |
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| *Ellis' Rules*—continued.<br><br>The extensive frauds that took place in the Kalyán *táluka* with regard to teak trees disposed of under these Rules led to Government Resolution No. 5040 of 8th September 1873, which withdrew from rayats the option to purchase given to them under the Rules.<br><br>It appears to be evident that the nature of Ellis' Rules was such as to necessiate the separate inquiry into and disposal of each individual case coming under them, and that therefore no one can claim any advantage derivable from them unless he can show that the case of the trees in his land was dealt with and disposed of under them by a special order applicable thereto. | *General Conclusions*—continued.<br><br>IV.—Toddy trees (brab and date). Toddy trees with the exception of *Shilotar* trees in Sálsette and *Fajni* trees in Máhim are everywhere reserved by Government.<br><br>V.—The supply of firewood, timber, &c., being the produce of reserved trees, for domestic and agricultural use is restricted and regulated by Section 44 of the Land Revenue Code and by Rule 2 under Section 75 of the Indian Forest Act. The provisions of Rule 3 under Section 41 of the Indian Forest Act prohibit the removal without pass of material in greater quantities than one head-load in 24 hours from the limits of the village in which it is produced. |

(Signed) E. J. EBDEN,
Forest Settlement Officer.

## MEMORANDUM.

The object of this paper is to show all the rights that are known to exist in the North Konkan over teak and blackwood in Government villages and lands. These naturally fall into two divisions—

Those existing previous to our rule.
Those granted by our Government.

1. The only claim against Government arising from rights said to exist previous to our rule is founded on the *suti* tenure, and although the terms *suti* and *sutidár* were frequently used previously, no attempt to define their rights or to establish these as giving the ownership of the land or the trees was ever made previous to the suit of Atmárám Tipnis *vs.* the Collector of Thána, filed in 1870. The claim was then thrown out by the Assistant Judge (Mr. Cordeaux), and on appeal by the Judge, Mr. Coghlan. But on appeal to the High Court the case was remanded by two Judges (Messrs. Lloyd and Kemball) on the ground that the report of Govind Purshottam *vs.* the Collector of Kolába (Bombay High Court Reports, VI., 188) did not bear the meaning attributed to it by the reporter. On remand the Judge (Mr. Coghlan) not only reversed his former finding, but declared that *sutidárs* were "owners, proprietors, landlords" of the lands they held. An appeal was made to the High Court against this, but after a considerable time withdrawn on Mr. Naylor's recommendation. Government having determined nevertheless not to accept the decision, it became necessary to go as deeply as possible into the whole matter of the rights of *sutidárs*, and the result is that *suti* is proved to have been nothing like a proprietary tenure at all. It is not certain that any further attempt will be made to prove it so, although if a plaintiff can in any future case induce the Court to put the burden of proof on Government, the attempt might be made. At all events the narrative as to *suti*, &c., is sufficient to entitle the Collector in any case in which proprietary rights over land in Government villages are asserted, to call on the Court to put the burden of proof on the plaintiff; and if that is done, there need be no fear of the result.

2. As to rights granted by our Government, these resolve themselves into those granted at the Survey, which in the Thána Collectorate was begun in 1854. From that time till 1870 it was never asserted or apparently imagined that teak and blackwood had been given to survey occupants by Government; but in 1870 Atmárám Tipnis, in the case already mentioned, claimed that by Survey Rule No. 10 trees of every description had been given. Messrs. Cordeaux and Coghlan rejected this claim on the authority of Govind Purshottam's case (High Court Reports, VI., 188) decided by the Chief Justice and Mr. Melvill; but on appeal to the High Court, Messrs. Lloyd and Kemball explained that decision in a different way from the reporter's comprehension of it, and remanded the case for retrial. Mr. Coghlan then found that Survey Rule No. 10 did give all trees without exception to occupants of 20 years standing; and this, on Mr. Naylor's recommendation, was not appealed against. The narrative of the orders of Government as to teak and blackwood, and of the proceedings of Colonel Francis at the introduction of the Survey, clearly prove—

1*st.*—That from 1839, when attention was first directed to forest matters, to 1870, Government prohibited the cutting of teak in the most absolute manner, and that no doubt was ever raised as to their right to it in all Government lands.

2*nd.*—That in 1847 a rule precisely the same as Survey Rule No. 10 was introduced in the North Konkan under the sanction of Government, and that from the operation of this rule teak and blackwood were expressly excluded. This rule was never cancelled, or set aside in any way.

3*rd.*—That therefore Colonel Francis, when he introduced the survey in the Thána Districts, put forth a circular to the *mámlatdárs*, which was passed on by them to the *talátis*, explaining various points in the printed Survey Rules, and among these expressly stating that Rule No. 10 did not apply to teak and blackwood, which were to be regulated by the rules already in force. The authority of this circular as binding survey occupants was never questioned till 1870.

The above facts were not stated in Tipnis' case, it being simply stated that Colonel Francis had on his own authority modified the Survey Rules of Government, and Mr. Coghlan decided such modification to be unlawful. Under the circumstances mentioned above it may be reasonably expected that the Courts will decide that it was lawful. If, however, Mr. Coghlan's judgment is upheld in the face of the facts now proved, the result will be to bind Government to the strict letter of rules in a sense quite different from the proved meaning, and from the whole policy of Government constantly reiterated from 1839 onwards; the rules themselves having been made, like all rules at that time, without any idea of their meaning ever being questioned in Court, and the fashion of interpreting all rules in the most strictly legal sense of the words having arisen long since these rules were made.

It is to be observed that the decision of Messrs. Lloyd and Kemball modifying the reported decision of Sir R. Couch and Mr. Melvill has itself never been reported. The judgment in Govind Purshottam's case is of such importance that there ought certainly to be no doubt as to what it really means, and it would be well to take this opportunity of getting the High Court to publish a correction of it in the way it is interpreted by Messrs. Lloyd and Kemball, if that is its real meaning. It may be added that this Paper applies generally, though probably with a few exceptions, to the Kolába Collectorate as well as to Thána.

## I.—Rights in land previous to our Government.

*What can be discovered as to the so-called Suti Tenure.*

The only claim to proprietary rights made hitherto is on the ground of the *suti* tenure which is said by various claimants to have carried with it the right to trees, including teak. Now, the most curious fact in all this discussion is the utter absence of information in the records of Government as to such a tenure and the rights of *sutidárs*. In fact this absence of information is so great as to lead irresistibly to the conclusion that *suti* was not a tenure at all as the word is generally understood, and that the rights of *sutidárs* are an invention of those who are now interested in proving them. I have gone through all the records both in the Thána Collectorate and the Bombay Secretariat that I thought could possibly throw any light on this question; and for one purpose or another have read every book, old and new, in which I could find any mention or description of the Konkan; and all the mention that I have found of the *suti* tenure is that given below. With it will be found an account of the condition of the district in the early years of our rule, and of the various rights then claimed which it is hoped will be sufficient to defeat any fraudulent claims similar to that of the *sutidárs* which may be made in future.

2. As to trees, I have found nothing whatever either asserting or denying the right of *sutidárs* to trees, or mentioning them in connection with *sutidárs* at all. Whether, therefore, they had the right to trees or not must depend on what Mr. Naylor calls "the incidents we find attached to the tenure." But unfortunately for this mode of proof the tenure itself is scarcely ever mentioned at all, and therefore there is very little room for discovering its incidents. In Molesworth's Maráthi Dictionary (Ed 1857) no meaning is given to the word 'suti' showing it to mean a tenure or a right of any sort; and the word 'Sutidár' does not occur at all. In Wilson's Glossary, which is particularly rich in revenue terms, *suti* is described under the spelling 'susti' as 'a tenure by which land is held of a proprietor by a tenant paying the full Government assessment. This is about as vague as could be wished. Next, as to Government records, I do not say that the word does not occasionally occur otherwise; but in only two instances have I found it mentioned in such a way as in the smallest degree to lead to any inference as to the privileges of the so-called tenure. The first is in a revenue letter from Bombay of November 27th, 1822, which summarizes a report from Mr. Marriott, the first Collector of the Northern Konkan. But the files* containing this and other reports of Mr. Marriott's are unfortunately lost and cannot be traced either in the Secretariat or the Thána Collector's records.

No proof as to trees.

Meaning of *Suti*.

Mention in early records.

3. In the summary of Mr. Marriott's Report, however, the one sentence about *suti* is this: "The tenure called *sootee* or *wattan* he (Mr. Marriott) considers the "same as *mirási*." This is not very much good, and particularly as the other extract leads to a quite different conclusion. It is in a report by Mr. D. Davidson, then 3rd Assistant Collector of Thána, dated February 15th 1838, on the survey and assessment of the Sanján *táluka*. He proposed certain rates for land suitable for growing sugarcane, and then said: "On this settlement the ryots "will take the land '*sootiwár*' instead of as now for only one year." This certainly does not look as if *suti* meant even an inferior *mirási*, but rather as if it were a more certain occupancy right than a mere yearly tenancy; and this is what the whole of my information leads me to believe it really was; nor is this so much opposed to Mr. Marriott's definition of it as *mirási* or *vatan* as might at first sight appear, as it is well known that in the Southern Konkan. *Vatandár kuls* are not at all like *mirásdárs* or even *dhárekaris*, but simply old occupants with the same sort of rights as those conferred by our survey. And the term *mirás* is used in a very general manner throughout the Konkan, meaning among other things the lands held by village Mhárs even when these are not *vatandárs*.

4. These two extracts are absolutely the only description we have of the *suti* tenure from the beginning of our Rule to the commencement of Colonel Francis' survey of the Konkan in 1855. The word is not mentioned (as a tenure at least) in Regulation I. of 1808, which gives so minute a description of the revenue system of Sálsette from the earliest times, and never mentioned as a tenure in the very exhaustive reports made by Mr. John Marshall Davies on most of the *tálukás* from 1836 to 1838. In the settlement reports of Colonel Francis it is nowhere described though the word is occasionally used. In the reports of the Sadar Diwáni Adálat, I have found it only once mentioned in a case reported in Vol. 7 page 129. Here it is simply stated that plaintiff held his land on *suti* tenure, and the tenure is not at all described in the text; but there is a note, apparently only on the authority of the compiler of the reports, "*Sootee* tenure.—Land held under certain privileges of lower assessment, &c." The '&c.' may of course cover a good deal; but the rest happens to be wrong, as it is not even now claimed that *suti* carried with it a lower rate of

Mention in Law Reports.

* Selection of Papers from E. I. House (1826), Volume III., page 773.

assessment than lands held otherwise. Mr. Naylor in his report on Tipnis' case (page 10) mentions one case in the High Court in which the tenure has been alluded to, and I suppose I may presume that no other decision about it has been passed in the High Court. Mr. Naylor says that in that case "permanency was recognised by the High Court as the distinguishing characteristic of the *sutidár's* tenure;" and I suppose that any one would take these words as meaning that the High Court had decided what the tenure was, and had in particular decided as to its permanence. But the fact is quite different. That decision throws no light whatever on what the *suti* tenure was, and it would have been quite as well if Mr. Naylor had said so. The point in dispute was whether the agent of an *inámdár* had the right to grant land in *suti*, and all the description there is of the tenure is in one sentence of Mr. Tucker's Judgment*:—"They (*inámdárs*) were under no obligation to let the said lands to tenants on the *suti or other permanent tenure.*"

Voluminous records as to other tenures.

5. Now this is all that I, after the most diligent search, have been able to find about this so-called tenure, and is certainly a great deal more than was before Mr. Coghlan when he found that *sutidárs* were "proprietors, owners, landlords." And now I may perhaps ask what conclusion Government would draw from so remarkable an absence of description in our records? I would ask them to compare with this silence the descriptions of the various tenures of the Gujarát Collectorates, and the disquisitions on their history and origin, their privileges and incidents, as recorded by Mr. Elphinstone and the Revenue Officers of his time and printed in the same volume from which I have quoted the summary of Mr. Marriott's description of *suti*. Compare also the exact description of the *mirási* tenure of the Deccan and the discussions about the *khots* and *dhárekaris* of the Southern Konkan (all in the same volume), and then turn to the reports of the Sadar Diwáni Adálat and of the High Court and see how often all these other tenures form the subject of decisions. After such a comparison, if Government can believe that this *suti* tenure was what Mr. Coghlan and Mr. Naylor want us to believe, and that nothing was ever said about it simply because it was so valuable, then the whole case may be given up at once. It must be remembered also that Mr. Coghlan's judgment makes the *suti* tenure to be far more valuable than the *mirási*, for no one even heard of a *mirásdár* being called a "proprietor, owner, landlord." My own inference from the absence of any record as to *sutidárs* is, that they were simply the ordinary hereditary cultivators of the land holding direct from Government without any greater rights than ordinary cultivators had elsewhere.

Acknowledgments as to *suti*.

6. But certain points are conceded by advocates of the *suti* rights which it is as well to consider. Firstly, the tenure is said to be similar to *mirás*. This statement, however, is of little value unless we can find out the points of diffemce. It is allowed that the tenure did not rest on *sanads* or other documents, that it gave no right to fixity of assessment, and no immunity from the levy of cesses. In these respects it was similar to the *mirási* tenure, but it is also acknowledged that the *sutidár* had *not* the right as the *mirásdár* had of claiming his land after a long or even an unlimited period of absence. When all this is acknowledged the practical points of importance seem to me to be reduced to three:—1st—Had the *sutidár* the right which the *mirásdár* had of transferring his land by sale, gift or otherwise? 2nd—Had he the right to the trees on the ground? 3rd—Could he turn his land to other purposes than those of cultivation? The last point is, for the purposes of this enquiry, not important, though it might possibly become so; but I think it will be allowed that if these three questions be answered in the affirmative, then the *sutidár's* right would properly be called a proprietary right; if in the negative, an occupancy right. To clear up the first two of these three doubts is therefore of importance; but there is, as already stated, no positive or direct evidence on record.

Points that remain for decision.

*Evidence from other Tenures of the District.*

7. Fortunately, however, there is a good deal of negative and indirect evidence. It must not be supposed because the *suti* tenure is not described that therefore we are left quite in the dark as to the tenures of the Northern Konkan. I am prepared to prove that there was no tenure of unalienated land in the Northern Konkan which carried with it either the right of transfer or the right to trees, except in the latter case to so limited an extent as Government has already admitted. To prove this involves an examination of all the rights over land that existed in the district previous to our conquest, and will therefore require a long report; but I hope there can be very little doubt as to the result.

*Inám* land.

Now, firstly, as to the right of transfer. In the letter of the Bombay Government already quoted, para. 39 runs thus:—

"Mr. Marriot considers the right of property in the soil of this zilla to be indisput-"ably vested in Government with the exception of *alienations by specific instruments* "granted by the Sovereign; which though they may be, and indeed are recognised by the "British, they never were so by any former Government longer than it suited their con-"venience to respect them." This from the words I have put in italics evidently refers to *ináms* of various sorts; and after a little more description of them he says: "*With*

*High Court's Reports, IV., 127.

Transferable.

"*this tenure* the holder of land might transfer it, and under "the Marátha Government this practice had at least been "winked at." Mr. Marriott wished a proclamation to be issued giving the right of transfer Then follows para. 42, beginning with the words already quoted, *viz*:—"The tenure called "*suti* or *vatan* he considers the same as *mirási*. Besides this there is the *chikul* and "*dulundy* tenure at which land is taken for one season certain at varying rates." Now, as the transfer of *inám* land was only "winked at" by the former Government and nothing is said about the transfer of *suti*, which is shown afterwards to have been less valuable than *inám* in the proportion of six to ten, I think it may be assumed that *suti* was decidedly not transferable. Yet Mr. Coghlan and Mr. Naylor in Tipnis' case assumed this important point in favour of the *sutidár* without thinking it necessary even to quote any authority.

The *Pándharpesha* tenure.

8. In 1827 and following years there was an enquiry into the rights of those who held under the so-called *pándharpesha* tenure, which appears to have been the most valuable known of in the district after *inám*. *Suti* and *sutidárs* are never mentioned, but no one can read the correspondence without coming to the conclusion, that that is simply because the Pándharpeshás were (like all ordinary cultivators settled in the villages) themselves *sutidárs*, though they had claims to extra privileges above those of the great body of the *sutidárs*. I gather this from the following:—1.—In the draft of a letter* from Government, initialled by the Honourable Mr. Elphinstone and all the members of his Government, this passage occurs:—"The "present petitioners (that is the Pándharpeshás) rest their claims on grounds entirely "different. They represent themselves or their ancestors as the original reclaimers of the "land from the waste, and as thus holding a title to it similar to that of many *mirásdárs* in "the Deccan." This not only agrees entirely with Mr. Marriott's short definition of *suti*, but is also conclusive that there could have been no landholders with claims resting merely on prescription and customs superior to these Pándharpeshás. Fortunately, however, a special officer (Mr. Williamson) was appointed to enquire into the *pándharpesha* tenure, and their status was therefore set forth at length. The description he gives of the tenure is this:—"The Pándharpesha having once obtained possession of land has a title by the usage "of the country to retain it. Like the well-known right of cultivation common to ryots "in most parts of India, it (with the privileges attached to it) remains in the family so "long as the revenue is duly paid." This again agrees generally with the *mirás* right, and therefore with the *suti* as described by Mr. Marriott. I think there can be no difficulty in concluding from the above that the *suti* tenure was not separate from the *pándharpesha*, but was included in it, and that when *suti* existed alone it was of less value than that known as *pándharpesha*. And this is made pretty certain by the case reported in the 7th volume of Sadar Diwáni Adálat reports already quoted. In that it is distinctly stated that plaintiff held on *suti* tenure and as a Pándharpesha paid only the lowest rates of assessment. In fact he claimed both as *sutidár* and as Pándharpesha. From all this I think we may assume, that if the *pándharpesha* tenure did not carry with it any particular right, there is a strong presumption that the *suti* did not either, and this makes it necessary to show what the rights of Pándharpeshás were proved to be.

More valuable than *Suti*.

9. After Mr. Williamson's report Government came to a final decision as to the Pándharpeshás. There was considerable difference of opinion, Mr. F. Warden and Mr. Simson holding that the privileges claimed by the Pándharpeshás did not constitute a tenure at all, but were simply caste advantages given to them by the revenue farmers without authority in the worst days of the Peshwas' Government. I am bound to say that, as far as I am capable of understanding it, the evidence in favour of this view is overwhelming. But Sir J. Malcolm with characteristic liberality was determined that the Pándharpeshás should have what they claimed, and the decision therefore was that their privileges as proved should be continued to them. But it so happened that both those who supported and those who opposed the Pándharpeshás were agreed on one point, *viz.*, that the tenure did *not* carry with it the right of transfer. Mr. Williamson, who was for giving them everything, wrote: "In a few instances he (the Pándharpesha) may have trans-

But did not carry with it the right of transfer.

"ferred the land by sale, &c., to others; but usage is here clear against his doing so, his "claim to the land standing good no longer than while he cultivates it." The decision on this point was in Government letter No. 565 of March 25, 1828,† in the following words:— "In cases where no specific engagement to the contrary exists, a Pándharpesha having "obtained regular possession of land, his right and title to retain it are good so long as he "continues to cultivate it and pay the established revenue; he may not however transfer it "by sale, &c., to others, and his claim to the occupation of waste land is secondary to the "claim of an ordinary ryot." It is of little consequence whether we say that *sutidárs* are like *mirásdárs* or not; but it is certain from this description that Pándharpeshás, who were at all events not inferior to *sutidárs*, had no more than what we should now call a right of permanent occupancy but without the right of transfer. It should be mentioned that the

* No. 788, May 1st, 1827.—Secretariat, Vol. 50 of 1827.

† Volume 12 of 1828, page 325.

right of Pándharpeshás to hold at favourable rates, which in point of fact was the whole extent of their tenure, was continued till the introduction of the present survey and then abolished.

Settlement of 1836-38.

10. In 1836 a new survey and assessment was undertaken in the Northern Konkan, the officer chiefly employed in it being Mr. J. M. Davies. In all the descriptions of the different *tálukás* the term *suti* is never mentioned at all as a tenure except in the one extract about Sanján already given (in para. 3); nor is any tenure superior to that of the Pándharpeshás or conveying anything like a proprietary right ever mentioned, nor is there the least distinction made between the tenures of different *tálukás*. The *pándharpesha* and *dulandy* tenures, which are constantly mentioned consisted merely in the right to hold land at lower rates than other ryots, and there is no trace of any tenure being acknowledged higher than an occupancy right. The question as to the right of transfer by Pándharpeshás did not come up again for the simple reason that it had been finally settled by Government in 1828.

*Rights of various Classes to Trees.*

The above seems to me sufficient proof that *sutidárs*, whether they be called *mirásdárs* or occupants, had no right of transferring their land by sale or otherwise, which was the first question of importance I proposed concerning their tenure. The next point to be considered is as to the right to trees allowed by the Peshwas' Government.

Taxes on trees.

Government has decided not to contest the right to trees growing on the embankments of rice fields, and in rice fields themselves there are of course none. The question therefore is only, what were the rights as to trees in *varkas* land; and I can prove not only that all trees in *varkas* land were taxed by the Peshawa's Government, but also that there were no private rights at all, and very little cultivation in *varkas* land until some time after the commencement of our rule. This answers the easy objection that the taxes on wood may have been levied only on that growing in waste ground, and not on that in the cultivated numbers. Now, Regulation I. of 1808

In Sálsette.

is the only detailed account of the taxes levied by the Peshwa's Government in the Northern Konkan, and that refers only to Sálsette, yet so far it is quite conclusive. Section 14 mentions the produce of different trees which it would appear went entirely to the Government and was not simply taxed; and this list includes not merely such fruit-trees as the jack, tamarind, and mango, but also the *undi* and *karanj* from which oil is produced, and at Bándra the *ránjan* (Mimusops hexandra), a tree of very small value in the Konkan, and of which I never heard any use being made there except for firewood, and so on. Section 16 says: "There was also a duty "raised on the firewood growing on the hills consisting*.....thirdly of *wan makta* or the "general duty on cutting wood from the hills which was also leased out to a farmer." In 1796 a great number of the taxes levied up to that time in Sálsette were abolished, but the produce of the trees mentioned in Section 14 and the *wan makta* in Section 16 were retained. Now, it will be noticed that teak trees are not mentioned in this at all, which only means I suppose that teak was included in the wood from the hills to which the general duty on cutting applied. It would certainly be a rather curious assumption that that was excepted without being mentioned, when we read in one of Mr. Marriott's reports that it was a principle under the Marátha administration for its numerous officials to multiply the heads of taxation to the utmost possible extent. This indeed is fully borne out by Regulation I. of 1808, in which not only every general tax which it is easy to imagine is recorded, but also numbers of special ones applying to only two or three villages each. It is easy to see also that teak had no particular value at this time from it having been so abundant, so that there is nothing at all extraordinary in it not being mentioned but simply included in the wood growing in the hills.

In the rest of the North Konkan.

12. Now, as to the rest of the Northern Konkan, we unfortunately have no detailed information owing to the loss of Mr. Marriott's reports already mentioned. In the letter† of the Bombay Government, however, of April 19th, 1822, para. 206 runs thus:—"Mr. Marriott submitted a statement of "*some* of the taxes collected in the Northern Konkan to the number of thirty-six, observing "that if he were to give a detailed list of the whole it would, independently of the time "that would be required to complete the document from the arbitrary and variable manner "in which the different taxes were assessed, afford no additional useful information than "what was contained in the statement in question; that scarcely two districts had the "same rates of taxes, the system varying in almost every village." This seems conclusive that the system was much the same in the rest of the Konkan as that detailed in Sálsette, and it would certainly be an unwarrantable assumption to make that so general a tax as the *wan makta* was dispensed with, or that teak was exempted from it and given free to landowners *because* it was the most valuable wood.

Proof from Poona Duftar.

13. In Tipnis' case seven documents from the Poona Daftar were put in to prove that teak trees were royalties under the late Government. As to these, Mr. Coghlan decided that "it does not appear

* The first and second were two local and partial taxes.

† E. I. H. Selections, III., page 767.

that Nos. 67 and 68 applied to "trees on private holdings as well as public forests. No. 69 "clearly applied to forests only, and Nos. 70 to 72 appear to apply exclusively to forest "timber." Something further on may be said as to these; but No. 66,* which Mr. Coghlan said nothing about, is tolerably conclusive:—"In the above *taraf* the felling of teak has "been recently prohibited;" and this prevented the cultivation of *varkas*, which had been lately taxed; but in order to allow of the cultivation it was ordered that "the teak jungle "shall be preserved where it is thick, where it is thin let the rayats clear it." This proves plainly that permission to cut down teak even where it was thin had to be obtained; and it proves also that the teak was not given to the ryots even when they got the land on which it grew for cultivation. Yet this document both Mr. Coghlan and Mr. Naylor, in considering Tipnis' claim, utterly ignored. I should have explained before that the word 'varkas' means properly the inferior sorts of grain, and has only recently been applied to the land on which such grain is grown. This fact explains the absence of the word 'varkas' from Regulation I. of 1808 and old documents, and the rare occurrence of the word even as late as 1837-38 shows how little of this cultivation there was up to that time. This also gives importance to the document just mentioned, in which it is mentioned that '*varkas* has been lately taxed'; and this leads to the next point to be proved, *viz.*, that there was under the Native Governments and for a long time under our rule also no private property in *varkas* land at all, and so little cultivation of it that for a long time no assessment at all was placed on it.

From Reports of Sadar Diwáni Adálat.

14. In the "Reports of Civil causes tried by the Court of Sadar Adálat" from 1800 to 1824 there is a case (Vol. II., page 273,) in which a timber merchant sued the farmer of the timber dues of the Káman *taraf* of the Bassein *táluka*. The question as to ownership of timber is not clearly put, but it appears that timber merchants were allowed to go into the jungles and cut teak, and on this being floated down the creek the *tizái* or a third of the value was levied by Government. A Kárkún gave evidence that from 1810 to 1816 the "timber office" was not let out but managed by the *Subha* (of Bassein); but after our rule began, the right to collect this was sold by auction. The particular point to be observed is, that the people who cut the wood were not landholders, but timber merchants who could scarcely claim any right to the teak, and they are spoken of in such a way as to lead to the inference that there were many of them. Of course it may be said by those who think it proper to assume everything against Government, that this case proves nothing as to wood growing on the fields of private landholders, and that is true; but if it is proved that there were no private rights and scarcely any cultivation of *varkas* land, then it may be acknowledged that the Government right to tax the teak extended to every sort of land on which teak can grow.

*No Private Rights in Varkas Land previous to Colonel Francis' Survey.*

15. I am quite willing to acknowledge that the above negative proof of the rights of *sutidárs* and other cultivators as to the transfer of their fields and the property in the wood growing on them might not satisfy the Thána Court; but I think it must, taken with the silence of the earlier reports, raise the strongest presumption in any unbiassed mind that neither *sutidár* nor any other landholder in the Northern Konkan had rights that could properly be called proprietary, and if a *sutidár* plaintiff were called on to prove the right he claims he would not have the smallest proof of any sort. But supposing it to be decided that I have failed to prove this, and that the *suti* was a proprietary tenure carrying with it the right of transfer and of ownership of the trees, still what I have now to put forward would render such an knowledgment of no great importance since it would restrict *suti* rights to rice land, over which survey occupants have already the fullest rights. There were in fact no private rights at all (distinct from common rights) over *varkas* land, and therefore even if *sutidárs* be called proprietors or *mirásdárs*, it will nevertheless follow that they had no proprietary or even occupancy rights over *varkas*. It is a fact about which there can be no doubt that it is only since our rule began and the population has so greatly increased that *varkas* land in the Konkan has become so valuable, and I have called attention to this fact in recent reports on the Southern Konkan, though there the population was always much greater than here, and the *varkas* therefore not so entirely despised. The hills were generally covered with wood, which was then so abundant as to be of scarcely any value though it was always worth taxing by the Maráthás. Those who thought *varkas* land worth cultivating like the Kolis, Várlis, &c., could go and cultivate it where they liked with little, if any, restriction. The right to cut *rább* from the nearest and most level *varkas* lands was appropriated to the owners of certain rice fields; but those who liked to go and cut *rább* or fuel or wood for their houses from the hills did so, and no one thought of preventing them, though, as I have already shown, Government levied taxes on the cutting of *rább* as well as on wood of all sorts. This state of things naturally accounts for the little mention found of *varkas* land in the early reports, and the proofs of it I now proceed to give, premising that these proofs come under the following heads: 1st—arable land in all these old records means rice land either cultivated or waste; 2nd—the rates of assessment given include none which could possibly be applied to *varkas*; 3rd—in the exceptional cases where *varkas* cultivation is mentioned, it is almost always spoken of as being part of the exercise of a common and not of a private right; 4th—accordingly the

Small value of *varkas* land in former times.

* Mr. Naylor's Report, page 2.

cultivation of *varkas* where carried on at all was not in regular fields divided off, but was made on the *dalhi* system by clearing patches here and there, varying from year to year according to convenience; 5th—these common rights of all the villages were only turned into private rights by the division of the hill lands into fields under the Survey of Colonel Francis. These proofs all hang together in such a way that I find it much easier and more satisfactory to give them chronologically rather than to take each point separately :—

(*a.*) The *pahání khirds* of the Peshwas' time and of the early years of our rule show scarcely any entries for anything but rice land, though it would not be safe to say that no entries at all as to *varkas* can be found. Therefore when a man claims *suti* or other rights over *varkas* derived from the Peshwas' time, it will generally be sufficient to produce the oldest *pahání khirds* of his village. It should also be stated that as far as can be gathered from those who know, all the land thus entered in the *pahání khirds* is *suti*; and this fact alone affords a tolerable presumption that there was nothing of a proprietary nature in the right.

Proved by *pahání khirds*.

(*b.*) In Regulation I. of 1808, which describes the great prosperity of Sálsette under the Portuguese and its decline under the Maráthás and poor condition subsequently, the 2nd, 3rd, and 4th sections mention the rents paid in the various descriptions of rice lands and *shilotri* lands. The 3rd clause of the 4th para. runs thus :—"Some of the coarser grains, pulse, and vegetables were raised to a very limited extent in a few available spots in the *dongar* or hills, whence this was known under the name of *dongar* or hill cultivation." The same is referred to again in Section 16. Again, in Section 59, where the grants of waste lands under the British Government are mentioned, it is made quite clear that these were all waste rice lands, whether sweet or salt; and in all the accounts of receipts given in that Regulation there is no item of any grain which is the produce of *varkas* lands though the whole accounts were made up in grain. The extensive cultivation of hemp in the hills is mentioned in sections 74, 75, yet there is no mention of the State having received anything on this account except as already quoted in sections 4 and 16; and it must be remembered that Sálsette is described as having been under the Portuguese more flourishing than any part of the Konkan subsequently.

By Regulation I. of 1808.

(*c.*) Mr. Marriott in his Report of July 15, 1818, mentions that the "Kolis, Bhils, "Kátkaris, Thákurs, and other almost savage tribes "gain a scanty subsistence by the partial cultiva- "tion of the patches of land in the midst of the jungles which produce small "quantities of *náchni* and other dry grains." This *náchni* is now the commonest of the *varkas* crops, and dry grains of course include everything except rice.

By Mr. Marriott's reports.

(*d.*) The cultivation of hilly lands was done on the *dalhi* system, under which there was no allotment of lands, but every one took such as he liked at As. 8 an acre, burnt the trees on the ground for *ráb*, and after he had raised one crop abandoned this patch and took another, Mr. Jones, Assistant Collector, wrote on July 23, 1842 :—

By the rules as to *dalhi* cultivation.

"In order to give you an idea of the extent to which the present system of *varkas* "cultivation is every year destroying the forest trees, it is only necessary to "remark that when a ryot wishes to cultivate a *bigha* of *nágli*, for which he pays "As. 8, every tree and bush is cut down and burnt on the spot, to the destruc- "tion of much of the neighbouring jungle; and this, it is to be remembered, is for "one crop only; for a new *bigha* of forest must be cleared in the same way the "next year, the same spot being seldom used again for seven years." The Collector, Mr. Langford, wrote (November 25, 1842) :—"The revenue derived from our *varkas* cultivation "is so trifling that it would be well worth while to refuse cultivators permission "to clear spots when any serious damage would occur to trees."

This *dalhi* cultivation was gradually put a stop to, and in 1858 the Collector reported that it was no longer much practised; and it is clear that such a system could only exist so long as there was so much waste land as to make its value exceedingly small, and that as soon as any demand for the land arose the *dalhi* system was necessarily put a stop to. The above extracts, however, and those given from other documents show that except in this way in the hills there was very little *varkas* cultivation, but in the *ráb* lands attached to the rice fields there was apparently a little, though under what conditions it is not easy now to find out.

(*e.*) In the discussions on the *pándharpesha* tenure Mr. Williamson wrote :—Through- "out the Konkan Division the general rate inclusive "of a *bábti* is Rs. 4-1-0 a *bigha*, while the common "ryot contributes Rs. 5-2-0." Mr. Warden on this remarked :—"The lowest rate paid anywhere by a Kunbi is about Rs. 2 a

By the old rates of assessment.

"*bigha*, and it is as high as Rs. 12." These rates could evidently have been only for rice land; and in every report that I have read up to the introduction of the present survey, there is no mention of anything but rice land and *bágáyat* being regularly assessed, while the rates of assessment given are invariably similar to those mentioned above and so high as to preclude the possibility of their having been for *varkas*.

(*f.*) In all the reports on the survey of 1836-1838 already quoted *varkas* is scarcely mentioned at all, and where there are any returns of the arable land of a *táluka varkas* is not included in that term, which means in point of fact rice land. The cultivation of *varkas* is barely alluded to and never mentioned as affecting the general results. The only exception is in the reports on the Sanján *táluka*, where the *varkas* land is spoken of in the same para. with the rice land, and is said to be of two qualities, the first being sometimes cultivated with rice sown as a common grain. The explanation of this, though not given in this report, is obvious. It is just south of Sanján that the face of the country alters; the Umbargaon *peta* (which begins south of Sanján and extends to the Daman boundary) is much more like Gujarat than the Konkan so that the *varkas* land there is comparatively level, much more valuable, and of quite a different description from that in the rest of the Konkan, being such as would, if found in Gujarat or the Deccan, be called *jiráyat*. The proofs, that in returns of arable area and revenue *varkas* is not included, and that the amount of *varkas* land cultivated was very trifling, are:—

By the reports of 1836-38.

*Varkas* land not included in arable.

1.—In every *táluka* the revised as well as original rates are given as *awal*, *doom* and *sheem*, and nothing else mentioned. These are the old distinctions of rates which had come down from the Peshwa's time, and they are described definitely in Regulation L. of 1808 as well as other documents as referring only to sweet or salt rice land.

Rates only given for rice land.

2.—The island of Bassein containing 13 villages is said to contain a total of 1,612 *bighás* of arable land paying Rs. 15,000 assessment.—(*Revenue Commissioner's letter No. 1082, May 14, 1838*).

In Bassein.

3.—In a long report on the island of Karanja not a word is mentioned of *varkas* land or of any other cultivation than rice and *bágáyat*. Yet it was stated that the population was wretchedly poor because of the small amount of arable land, and that there was no waste. This is a very strong case, because any one who goes on to Karanja at any point can see that the amount of rice land is even now exceedingly small compared with the *varkas* and waste.—(*Mr. Davies' No. 77, January 15th, 1838*).

In Karanja.

4.—The total amount of *varkas* cultivated in Nasrápur *táluka* is given and was 4,950 *bighás* against 20,500 of rice. It is added:—"Indeed this land is only cultivated "in small patches and is not capable of *yielding a marketable crop.*" Nevertheless the *varkas* land is needed by the ryots; it affords them a scanty support, and enables them to sell their rice and keep up their cultivating stock and pay their assessment.—(*Mr. Davies' No. 1480, May 19th, 1836*).

In Nasrápur.

5.—"In Mánikpur (*táluka* Bassein) there is no *varkas* land attached to the rice land for the produce of grass and wood to burn on the land on which the seed is sown—they have to bring it from a distance from the jungles in Sáiwán."—(*Mr. Giberne, No. 597, July 14th, 1837*).

In Bassein.

6.—The waste land of Waredi *mahál* was 1,965 *bighás* and Mr. Davies gave it out at Rs. 3 a *bigha*, and hoped that Government would sanction this for seven years.—(*Mr. Davies, February 28th, 1836*).

In Waredi.

7.—The remark about the superior *varkas* in Sanján has already been given, but as to the *varkas* generally in that *táluka* Mr. Giberne (the Collector) proposed to allow three *bighás* of *varkas* to one of rice land free of assessment, the tenant cultivating it or using for *ráb* as he liked. The Revenue Commissioner (Mr. Williamson) in forwarding this said he apprehended a difficuty owing to the peculiar nature of this kind of cultivation and of the frequent changes of the fields "*which are neither enclosed nor fixed in their situations* but taken up wherever a convenient spot clear from jungle may present

In Sanján.

itself." This arrangement was sanctioned by Government, and they added that the fixing of distinct boundaries to the rice fields was a matter of great importance, showing that even in respect of rice land the limits of proprietary rights were by no means certain.—(*Government letter, No. 2254, July 25th, 1837*).

(*g*.) In or about 1846 Mr. Fraser Tytler made the settlement of the Násik Dángs, a district adjoining the Northern Konkan and a country of exactly the same character. The *mirási* right prevails there, and I find that while the *rice* and *rabi* lands were entered in the name of the *mirásdárs*, the *varkas* numbers were all entered as 'Sarkári'; and the names of the parties cultivating these numbers are not to this day entered in the register book, but only in the *kulkarní's botkhats*, and no claim has hitherto been made to private property in this *varkas*. This is certainly a strong collateral proof against rights of *suti* extending to *varkas*, for it shows that even where the superior right of *mirás* prevailed it was not recognised in that description of land of which by far the greater part of the Konkan is composed.

No rights over *varkas* in Násik Dángs.

16. I have thus gone through all the documents relating to the settlement and assessment of the Northern Konkan and adjacent Dángs from the time of the Peshwa to 1847, and the next that come are the settlement reports of the present Survey Department. It cannot be too much regretted that so great a change should have been proposed and sanctioned as the definite allotment of *varkas* land to individuals and its assessment by fields, without any clear statement being made of the system that had hitherto prevailed, without in fact the clear recognition that the change was one of principle and importance. Notwithstanding this, however, it is made perfectly plain that no allotment of *varkas* lands had hitherto been made. The first district settled (in 1855) was Nasrápur (now Karjat), and this also had been the first brought under Mr. Davies' survey. Colonel Francis,* in describing the old system under the Marátha Government, said that the first *bigha* settlements of 1771-72 were founded on a measurement of all the rice lands, and that Sadáshiv Keshaw's survey, which quickly followed, fixed the rates at Rs. 5, Rs. 4, and Rs. 3, for the three classes of soil. This of course is only rice land, and unfortunately Colonel Francis said nothing as to what the old system with regard to *varkas* was. After describing the measurement and division of rice lands by his own survey, he says "the *varkas* cultivation and hill lands are measured as a whole without any definement of individual holdings;" and the arrangement as to *varkas* was that residents of a village having both rice land and *varkas* were not to pay a separate assessment on their *varkas* but to pay only a little more on the rice land, while those who had no rice land were to pay for their *varkas* in a regular manner. This system was after a good deal of discussion adopted, and was continued in that *táluka* till 1874, when it was found advisable to allot the *varkas* lands and measure them regularly off into fields.

Alteration of principle by present Survey.

*Varkas* at first not allotted.

17. It is not necessary to go further into the settlements now existiting in other *tálukas*. Generally speaking the *varkas* land was measured off into regular fields, but it is perfectly clear from all the reports† that this was the first recognition of individual rights in *varkas* as distinguished from the common rights of cutting grass and lopping trees for *ráb*. But whether the *varkas* was left unmeasured and unallotted as in Nasrápur, or was measured off into numbers as in most of the other districts, no one seems to have made any objection that he had been deprived of rights in *varkas* land until the present strong bias of the Thána Court against Government rights of all sorts encouraged the vakils to set up the claim of *sutidárs* to be considered as proprietors not of rice lands only, which Government has practically allowed them to be, but of *varkas* as well. Mr. Simson in 1828, in writing on the *pánderpesha* tenure, said:—"The residents of the Konkan seem to think that their mere claim to a privilege however unsupported is sufficient reason for its continuance to them, although objectionable on general principles or opposed to general custom." Unfortunately they have now found that in the Civil Courts of this district such a mere claim is considered sufficient.

No objection made to settlement many years.

### *Sir H. Maine's "Village Communities."*

18. I have now gone through all the considerations that convince me that Government should firmly resist all claims to anything but an occupancy right in *varkas*, and even as to that should be firm in insisting that it was derived only from our own Government. But my conclusions on this point and on the rights to land in this district pevious to our rule are so exactly in accordance with what Sir H. S. Maine in his "Village Communities" has shown to be the old rules of property in land both in Europe and this country that it

Sir H. Maine's general conclusions.

* Government Selection, No. XCVI, page 3.
† Government Selection, No. XCVI., page 161.

is quite necessary to quote from him. He shows how great the similarities were between the early system of division of lands in European countries and in India. The ancient Teutonic villages were divided into the mark of the township, the common mark or waste and the arable mark or cultivated area,[1] and no one acquainted with the Konkan can help seeing how exactly these correspond with the division which is perpetuated in the survey papers of the present day of *gávthan*, *varkas* and *kharif*. It is impossible to condense what follows, but the most striking points in relation to our subject are:—1st— the fact stated that "the bleakest, worst soiled and most distant lands of the township were left in their native wild state[2]" not only as a common pasture ground, but also for supplying timber and fuel; 2nd—that the persons entitled to these common rights were not merely the land-owners of the parish, but all the householders; and 3rd—that these common lands were often held in the manner known in English law as shifting severalties.[3] The similarity of the first two of these points to the rights over *varkas* is at once apparent; and as to the third, the rules as to shifting severalties are singularly like the custom of attaching to every rice field a certain but more or less undefined portion of *varkas* already mentioned as existing in Sanján. It is not necessary to say anything about the modes by which all these curious common rights in England were gradually extinguished; but as regards shifting severalties that system came to an end "when each family was confirmed for a perpetuity in the enjoyment of its several lots of land."[4] Any one at all acquainted with the Konkan and its history will at once see that this extinction of the practice of shifting severalties in favour of definite allotments had been gradually going on ever since our conquest, and the consequent increase of population made *varkas* lands valuable; and that the change was only completed by the existing survey when the *varkas* lands were actually all apportioned to the individual villagers. But it is necessary to see what Sir H. Maine says of the alteration and absorption of the ancient common rights in this country. He points out that whereas in Teutonic communities the village waste was chiefly valued as pasture for cattle, the view generally taken of the common land in Indian villages is that it is that part of the village domain which is temporarily uncultivated, but which will some time or other be cultivated and merge in the arable work; and this view produces in the community a much stronger sense of property in common land than is usual in England; and the result was that the Native Governments claimed some exceptional authority over the wastes:—"Acting on this precedent the British Government at the various settlements of land revenue has not seldom interfered to reduce excessive wastes and to re-apportion uncultivated land among the various communities of a district."[5] All this seems to me to explain exactly the condition of private rights over *varkas* in the Konkan and the paramount power of the Government over it, and to confirm in the most striking way my view as to the absence of proprietary rights in *varkas*; and if, as a last resource, it be argued that landholders in the Konkan had always the right to cut wood in waste lands when and as they pleased, and that Government cannot now deprive them of that right, then I would rely on a judgment by Mr. Justice West in which he shows the narrow limits within which the English law has let "the doctrine of prescription by immemorial usage."[6]

Applicable to *varkas*.

Action of Government at Settlements.

Claims by prescription.

19. If it be objected that the Konkan is too near Bombay, and many parts of it too well populated to allow us to believe that rights over land were only a few years ago so ill-defined and transitional, then it is necessary to remember that so lately as when Elphinstone wrote his history he described the Konkan as formerly "a thinly inhabited forest, from which character it has *even now* but partially emerged;"[7] that about the same time Sir J. Malcolm, then Governor, could only look forward to the improvement of the "hitherto unproductive island of Sálsette" by respectable and opulent natives of Bombay settling in it; and that some years before this, but long after we got possession of the island, it was seriously proposed to import Chinese emigrants to bring the same Sálsette under cultivation. The descriptions of Captain Dickenson in his reports on the inland parts of this Collectorate show that at the end of the Peshwas' rule the whole country was lying waste and unpopulated. These and the reports already quoted in para. 15 and elsewhere prove the same thing—that up to about 1850 waste land was everywhere so abundant as to create a feeling of despair as to the future of the district, that the increase of cultivation was so much desired that the poorest people were allowed to cut down as many trees as they liked merely for the purpose of clearing the land, and that wood itself was so abundant that every one cut where and as he liked. And yet our learned judicial officers, ignoring all these facts, and "giving historical questions a free poetical treatment," argue as if every sort of private right in this district, even in the most jungly parts, was as well defined and secure as it would have been in England, and as if the Peshwa and his officers never acted but in the strictest accordance with laws passed by the representatives of the people.

State of the Northern Konkan previous to 1818.

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(1) Village Communities, p. 78. (2) Village Communities, p. 92.
(3) Do. do. p. 87 (4) Do. do. p. 81.
(5) Do. do. pp. 120-122. (6) H. C. Reports, viii. 172.
(7) History, p. 220.

Recapitulation.

20. I think it better now to recapitulate the conclusion I have come to :—

1st.—There is no mention of the *suti* tenure in any documents either old or new that I have been able to discover.

2nd.—Neither at the Survey or at any previous time were any such claims made on behalf of *sutidárs* as those put forward in Tipnis' case and acknowledged by the Thána Court.

3rd.—There was no tenure in the North Konkan corresponding to *mirás*, or amounting to any sort of proprietary right, and none which carried with it the right of transfer, or the ownership of the trees.

4th.—The survey occupancy is in every respect better than either the *suti* or any other tenure previously existing in the North Konkan.

5th.—The *suti* right was merely a more or less permanent occupancy right in distinction to the *eksáli* or yearly tenancy.

6th.—Whatever rights may have been claimed in former times by cultivators over rice lands none were either claimed or acknowledged over *varkas* except various rights of common, which were gradually becoming appropriated by individuals in the manner familiar to students of European history.

7th.—Up to the time of Colonel Francis' Survey these private rights, although to some extent claimed, had never been in any way acknowledged by Government.

8th.—Nevertheless, owing to the waste condition of the district generally, appropriations of land had met with very little interference on the part of Government.

9th.—Now, when by increase of population and other causes the land has become valuable, the natural laxity of Government under very different circumstances is brought forward as proof of absolute rights, which could not have received any countenance whatever if the ordinary rule of requiring a claimant to prove his rights had been adhered to by the Thána Court.

## II—Rights given by our Government.

It is necessary to show first the orders and policy of Government with regard to teak and other timber in the North Konkan previous to the Survey.

21. It does not appear that any attention had been paid to the preservation of timber up to 1831, when the Collector wrote that "throughout Sálsette and in most parts of the Southern Konkan all teak trees wherever growing were* considered the property of the State." The prohibition against cutting them was removed by Dunlop's proclamation in the Southern Konkan; but "in Sálsette the prohibition has been continued, and Government still possesses a right to all teak trees except in villages which have been made over to proprietors."—(*Collector, No. 412, October 31st, 1831.*)

The system from shortly after the commencement of our rule till 1839 appears to have been that the cutting of all timber was taxed. "Under the former Government there were orders in some districts forbidding the cutting of particular sorts of wood under a certain size and age, but the particulars of this system of control and management I have not been able to discover."—(*D. Davidson, 3rd Assistant Collector, No. 1455, October 31st, 1838*). Besides the cutting fee there was in many places an export duty which the Collector of Customs looked on as a seignorage (June 5th, 1840), but this need not here be further considered.

23. In 1839 attention was drawn to the gradual destruction of the wood all over the country—1st, by the unlimited permission to cut on payment of the fees; 2nd, by the *dalhi* cultivation; 3rd, by the destruction of wood on rice lands. In that year, therefore, orders were issued absolutely prohibiting the cutting of teak. These orders were again issued in 1841 by the Collectors (Messrs. Langford and Jackson) after a correspondence with Government. Express orders of Government for this prohibition do not appear to have been obtained, but for a good many years ryots of various villages complained to Government against the prohibition at intervals, and in all these cases Government upheld the orders—that is, the prohibition—of the Collector.—(*G. R. No. 2390, July 21st, 1831.*)

A similar order was given to the Deshmukh of Murbád, August 25th, 1847, on his application to cut teak on his own land. Even other departments of Government and the Collector himself were obliged to apply to the Conservator. In 1846 the ryots of Wursur, *táluka* Khálápur, petitioned: "Agreeably to the orders of Government we have discontinued to cut teak wood in the Government jungles and in our fields"; but they objected to the prohibition against cutting jungle wood.

* This seems to mean under the former Government, but is not expressed.

As late as 1859, *five years after the introduction of the survey*, the ryots of Khálápur petitioned Government against the prohibition of lopping trees on their *fazan* lands, to which Government (*No. 463, February 5th, 1859*) answered that the prohibition was not against lopping trees but against cutting down trees without previous sanction.

There are many more petitions, from different villages and of different dates but all answered by Government in the same way, that is, by upholding the prohibition against cutting timber trees (not teak only) without express permission.

24. Now the letters of various officers show that this prohibition was really strictly enforced.

"With regard to teak the orders for its preservation are everywhere observed."—(*Assistant Collector Jones, July 23rd, 1842.*) "Excepting teak trees, the cutting of which has been everywhere prohibited."—(*Collector Langford, November 25th, 1842*). "In many villages of your Collectorate the teak tree has, since the restrictive orders of 1839, sprung up to a great extent."—(*Conservator of Forests, June 29th, 1847*). "In 1841 Messrs. Jackson and Langford issued orders strictly prohibiting the felling of teak trees without an express written permission from the Collector, which orders when appealed against by petitioners were on several occasions upheld by Government, and have since been maintained except that the power of granting permission now rests with the Conservator of Forests."—(*Collector, January 17th, 1851.*) In 1847 the Collector (Law) gave orders that persons cutting teak trees, either large or small, without orders, should be prosecuted under Regulation 14 of 1827, section 42, clause 3, that is, for wilfully injuring public property; and in 1858 a *pátel* of *peta* Kinavli was prosecuted for cutting down teak trees in his *ráb* ground; was acquitted for want of proof, but as he was responsible for their preservation, was ordered to pay their value to Government.—(The Magistrate was the late Mr. Hunter, Judge of Ratnágiri).

25. From the above the following facts are indisputable :—

(*a*)—From the conquest (1817) to 1839 there was no prohibition on the cutting of teak; but it was allowed, like other wood, to be cut subject to a certain fee (except in Sálsette where the cutting was always prohibited).

(*b*)—In 1839 the cutting of teak was prohibited. This prohibition was strictly enforced and applied to land of every sort.

(*c*)—The prohibition was sanctioned by Government, as appears by their answers to many petitions addressed to them against various parts of the orders.

(*d*)—But the powers of the Collector and Conservator to put restrictions on the cutting of teak, even without the sanction of Government, may be assumed from the fact that in 1847 they, without reference to Government, made a considerable concession to the ryots, by allowing them under certain rules a share in the cuttings and loppings of teak trees, on condition of their preserving the trees themselves.—(*Conservator, No. 346, June 28th, 1847*; *Collector, No. 811, October 4th, 1847*).

26. We now come to the first concessions made by Government with regard to trees. In 1847 the rule afterwards known as Survey Rule 10 and in exactly the same words was, after a correspondence with several authorities, sanctioned by Government for this Collectorate (February 12th, 1847); but with this explanation, that in recognizing the ryots' property in trees in lands of hereditary occupancy, Government continue to reserve to themselves the property in all trees grown in *gatkul* lands, waste places and *kurans*, and that the right granted to occupants on application to cut for their private use in *gatkul* lands is to be considered as permissive and not proprietary. The Revenue Commissioner, in forwarding this, wrote (*No. 1702, October 23rd, 1847*):—"The intention it would seem is that any appropriate prohibitions which may have been established by local usage should be upheld." Accordingly the prohibition against the cutting of teak was continued, and that this was the intention of Government is proved by the answers given to petitions subsequent to the promulgation of the rule, especially one from Nasrápur in 1851 in which the ryots' asked for the removal of the prohibition against cutting teak in their *fazan* (meaning proprietary) lands. This was refused by Government, (*G. R. No. 3503, March 28th, 1851,*) and a similar answer was given on a similar petition (*G. R. No. 4429, April 22nd, 1851*). The Collector reported, (*No. 42, January 17th, 1851,*) that "the orders prohibiting the felling of teak throughout the Collectorate without express written permission have been maintained." In this correspondence also the Conservator wrote that in preserving teak trees in *fazan* lands he has acted in accordance with the orders of Government and with the universal practice which existed throughout both North and South Konkan. Another set of rules was put forth in the same year as that which afterwards became Survey Rule 10 (1847), and later in the year. These rules were sanctioned by Government on May 24th, 1847, and were put forth by the Military Board as head of the Forest Department. They are fuller than the one given above, and also give to ryots the ownership of trees which they might plant on village commons. The last rule however is "That none of the above rules are to be held as in any way interfering with the orders at present in force regarding teak trees." The "orders at present in force" were, as shown above, absolutely prohibitive of cutting teak without express permission.

27. From this it appears that Survey Rules Nos. 10 and 11 were in force in the Northern Konkan for several years before the introduction of the Survey, and that teak was absolutely excluded from their operation with the express sanction of Government. When the survey was introduced the same rule was included in the Survey rules, without any express exclusion of teak from its operation; but in the circular explaining the rules which the Superintendent of Survey sent to the *Mámlatdárs* (which was of course passed on to the *Talátis*) he stated that Rule 10 did not apply to teak. The Thána Court held in Tipnis' case that this order to the *Mámlatdárs* exempting teak from the rule is invalid, because not sanctioned by Government; but no proof was given in that case of the rule having been in force up to the time of the Survey with the modification, as shown above.

28. It now remains to show that the modification was also in force after the introduction of the Survey, and with the sanction of Government; in other words, that Government never understood Rule 10 as giving the teak. The Survey was introduced into *peta* Khálápur in 1855. On December 20, 1858, the ryots of Khasadi in that *peta* petitioned that the Collector had prohibited the lopping of trees on their *ráb* lands. The Collector reported that this was not the case, but they were prohibited from cutting down trees without permission. Government upheld this order (*G. R. No. 463, February 5th, 1859*). This order may be thought to prove too much, as it refers to all trees, and would show therefore that Rule 10 was not applied to *ráb* lands at all. This is however true as regards Karjat *táluka*, where the rice land only was settled, the *varkas* land not being even measured.

In 1859 the Conservator and Collector (who, it has been already shown, made rules in some cases both as to concession and restriction without the sanction of Government) put forth a new set of rules—"Rules under which wood is to be granted to the people of the Thána *Zilla*." These apply partly to forests and partly to *ráb* lands. The cutting down of eight sorts of trees was prohibited in both by Rule 4, and Rule 5 gave the ryots permission to cut all bushes and underwood and to take the side branches of all trees growing on *ráb* lands except teak and *sissoo*, "which are not to be trimmed except under the superintendence of the District Forester." It is clear that the sanction of these rules by Government in 1859 is quite inconsistent with the idea that they had given the rights over teak to the holders of *ráb* lands in 1855; and it is only to *ráb*, that is, *varkas* lands, that the present dispute relates. Moreover if the express statement of Government is required, there is the order of Government (*No. 2097, May 27th, 1868*, which distinctly states that Survey Rule No. 11 was not in force in the Thána Collectorate; and Mr. Ellis, the Revenue Commissioner, wrote (*No. 2545, October 13th, 1862*):—It is "hardly necessary to premise that the rules of the Survey Joint Report in regard to trees in the Deccan have not been applied to the Konkan."

29. It is difficult to understand how any further proof can be required as to what Government meant to do, and it may be supposed that even the most erratic Judge will not in future decide that Government knowingly gave away its rights in teak. But it would seem also that:—1st—the fact of the orders preserving teak having existed alongside of Rule 10 before the Survey; 2nd—the fact of the Superintendent of Survey at the Survey having given express orders that Rule 10 did not apply to teak; 3rd—the fact that after the Survey the rules given above were still held to be in force and were acquiesced in by the ryots and never questioned till 1870; and 4th—that whenever the matter came before Government it declared the prohibition as to teak to be in force and Survey Rules 10 and 11 not to be in force, should enable the Courts to say either that the non-exemption of teak from the operation of Rule 10 was an accidental and verbal omission by which Government should not be bound, or that Colonel Francis' order exempting it was valid. Mr. Naylor, in his Report on Tipnis' case, says:—"It might have been proved" (meaning apparently it would have been relevant to prove) "that it has always been understood that Rule 10 did not apply to teak and blackwood." This was not proved in Tipnis' case, because it was never imagined that the question would be raised, but can be proved now without any doubt; for every order given by Government subsequent to the Survey was in the spirit not of the unmodified Survey Rules but of the modification put forth by Colonel Francis.

30. If however in the face of all this evidence the Court should still hold that Rule 10 must be read without any modification, we must fall back on the wording of the rules and on the judgment of the High Court, and insist that they be interpreted as strictly according to the letter when that course is favourable to Government as when it is favourable to those who claim against Government. The ruling in Govind Purshottam's case, as explained in Tipnis' case, by Messrs. Kemball and Lloyd, is that Survey Rule No. 10 does not give trees of any sort to survey occupants unless they can prove their occupancy of twenty years either before or after the settlement. Govind Purshottam was proved to have taken the land only at the survey; and as twenty years had not at the date of the suit elapsed, he was held to have no claim. Tipnis, on the other hand, was proved to have held his land for many years previous to the Survey, and so got the benefit of Rule 10. But *varkas* land all over the Collectorate was held in the way above described—that is, either as *ráb* land, or for *dalhi* cultivation. In either case, it was not entered in the names of those who had the *vahivát* as rice land was; and

cannot therefore come under the description of Government fields, nor can the old style of right over such land be called "uninterrupted occupancy." *Varkas* land generally therefore cannot come under Rule 10 except after the lapse of 20 years from the Survey, or the time the *varkas* lands were regularly allotted as fields. In Karjat, although the settlement of rice lands was made in 1854, the *varkas* lands were neither measured nor allotted to individuals nor separately assessed till 1874; in Panvel in 1858; Kalyan and the Khairne Puttee of Sálsette 1859; the rest of Sálsette and Bhivandi 1861; Bassein 1862; Kolvan (Shahápur) 1866. In the other *tálukás* teak, &c., was *expressly reserved*. It is clear from this that twenty years have not yet elapsed since the *varkás* settlement of any part of the Collectorate, and it must be observed that the limitation of the right to those who have held the land for twenty years applies not only to teak, but to all trees. If therefore the Courts insist on interpreting the rules as giving teak to tenants of twenty years occupancy, notwithstanding the proof given above, Government must in self-defence withdraw some of the concessions it has given to occupants by resolution, and in accordance with the ruling of the High Court as above, refuse to all who have not held their land for twenty years the right of cutting trees of any sort, which they have ever since 1862 enjoyed.

(Signed) A. K. NAIRNE.

*Grazing.*

No. 7467 OF 188.

REVENUE DEPARTMENT.

*Bombay Castle, 15th September 1885.*

## RESOLUTION OF GOVERNMENT.

His Excellency the Governor in Council is pleased to issue for general guidance the following revised orders for the regulation of free grazing and grazing on payment of fees in forest areas :—

1. Except in the case of any really valuable grass *kurans* where it has been customary to sell the grass and grazing by auction, and they fetch a high price, the practice of annual auctions should be discontinued.

2. Those parts of the forest lands in which planting has commenced and is going on, or will be commenced immediately, or the closure of which is required for preservation of young trees should be closed until such time as the tree growth has attained such proportions that, in the opinion of the Divisional Forest Officer, portions of them can with safety and advantage be opened to grazing.

3. When this occurs, fees may be charged, on the proposal of the Collector with the approval of the Commissioner, except where the Reserved forest was formerly *gáirán*, or where gree grazing has been awarded as the equivalent of *gáirán* taken into forest and included in the closed area. In the two latter instances it must be opened free of charge.

4. In those parts of the forest lands which are as yet not occupied for the purposes of forest conservancy by the Forest Officers, or where grazing cannot any longer do harm to the trees, grazing should be free in all cases where the grazing land was formerly *gáirán* or where the Revenue officers declare free grazing to be needed by the villagers for agricultural purposes, or to be the equivalent of former free grazing on *gáirán*; or fees may be charged if the Revenue officers declare this course advisable in the non-*gáirán* part on the proposal of the Collector with the approval of the Commissioner.

5. The village officers should be entrusted with the execution of the regulations issued for the exercise of free grazing privileges by the cattle of their respective villages.

6. The maximum annual rate of fees where fees are charged should be four annas for a buffalo, three for a cow or bullock and one for a sheep and a goat, where the latter are admitted, though Government reserve to themselves the right of imposing higher fees.

7. Forest guards should not interfere with the herds except with cattle trespassing into closed areas. Any irregularity noticed by forest guards with reference to cattle feeding in unclosed areas should be reported by them to the Revenue officer.

8. Unless special circumstances should render such a course undesirable all Reserved forests (except the areas closed under Rule 2) should be opened to free or fee grazing from the 1st of June to the 1st of February.

9. This Resolution applies to cattle kept for agricultural purposes and not to cattle kept for profit or trade, which latter should pay a higher rate of fees according to the value of grazing, to be fixed by the Commissioner on the proposal of the Collector.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, C. D.,
The Commissioner, S. D.,
The Commissioner, N. D.,
All Collectors in the Presidency proper,
The Conservator of Forests, N. C.,
The Conservator of Forests, S. C.,
The Commissioner in Sind,
The Conservator of Forests, Sind Circle,
The Director of Agriculture.

*Forests*: *Proposals regarding the privileges in Government Forests to be allowed to the people of the Alíbág táluka.*

No. 1203.

REVENUE DEPARTMENT.

Bombay Castle, 14th February 1883.

Memorandum from the Commissioner, N. D., No. 311, dated 26th January 1883—Submitting with his remarks for the orders of Government a letter No. 3986, dated 3rd October 1882, from the Conservator of Forests, N. D., together with one (No. 3063, dated 31st August last) from the Acting Collector of Kolába, who forwards a letter No. 103, dated 7th July 1882, from the Forest Settlement Officer, Kolába, with accompaniments containing his proposals regarding the privileges which the people of the Alíbág *táluka* are to be allowed to exercise in the Government forests.

RESOLUTION.—The Forest Settlement Officer has found that no rights save rights of way and a right to a share in the forest produce in one partially alienated village exist over the lands notified as forests in the Alíbág *táluka*.

2. The question which is now for consideration is what privileges in the Government forests in respect of grazing, collection of materials for *ráb*, firewood, thorns, grass cutting, stone quarrying, and wild fruits, should be allowed.

3. From the Forest Settlement Officer's report it appears that in the Alíbág *táluka* there are about 19,600 horned cattle, that the Government forest area is in round numbers 35,000 acres, and that in addition to the grazing procurable in the marsh and assessed cultivated or cultivable lands pasturage is available over nearly 21,000 acres of assessed *varkas* land. Apart therefore from the forest lands there would seem to be almost, if not quite, sufficient grazing forthcoming on the occupied and waste non-forest lands to satisfy the requirements of the limited number of cattle the *táluka* contains. All the officers however whose reports are now before Government, including the Commissioner, the Collector, the Conservator of Forests, the Forest Settlement Officer and the District Forest Officer, concur in recommending that grazing should be permitted in the forest lands subject to certain restrictions and on certain terms.

4. It is proposed to divide the forest blocks into compartments, and whilst closing absolutely one compartment in rotation in each block for a term of years to open to grazing the unclosed compartments. This is the system which has been followed in other Collectorates and its adoption in the Kolába District is sanctioned. The term of years for which a compartment should be absolutely closed may be left to the discretion of the Forest Department Officers, but under ordinary circumstances it should not exceed five years. In the case of the Kankeshvar block where the destruction of timber and vegetation in the so-termed forest lands has been most complete the portion to be closed at any one time may as recommended be fixed at one-half. In the four other blocks the part to be closed at any one time may be fixed at one-fourth of the total area of each block.

5. As regards grazing the permanent residents of the forest villages or of villages where lands have been taken for inclusion in forests may be permitted to graze their own cattle free of charge in the unclosed portion of the forest block in which are incorporated the forest lands of their villages. It appears inexpedient to limit this concession as suggested by the Conservator to the cultivators in the forest villages to the exclusion of the Dhangars residing in those villages, but it should be understood that in the case of such Dhangars only cattle which are *bonâ fide* their own property will be granted free grazing. Professional graziers and the inhabitants of non-forest villages may be allowed to graze their cattle in the unclosed area of a forest block on payment of the fees sanctioned for Mahábaleshvar and subsequently for other portions of the Presidency, as mentioned in Government Resolution No. 3560, dated June 21st, 1881. The Collector should arrange with the District Forest Officer that tickets for grazing on the fee system should be obtainable without difficulty by persons requiring them. This is necessary as well in the interests of the Forest Department as of the people themselves.

6. The inhabitants of forest villages may be permitted to cut for their own use grass in the unclosed portions of the forests and also in the closed portions when in the opinion of the Forest Department officers no objection exists to grass cutting in the closed area.

7. On the subject of the *ráb* privileges which may be admitted some diversity of views is noticeable. The Forest Settlement Officer considers that no tree *ráb* is required for the cultivation of the land and that the ash obtained from grass and farm-yard manure amply suffices for the production of rice and other crops, and would therefore prohibit the cutting for *ráb* of all live vegetation in the Government forests, or, in the event of this measure being deemed too stringent, would permit only some ten varieties of bushes to be cut, and would only allow the cultivators in the forest villages to take for their own use the cuttings from the forest lands within the village limits. These proposals are supported by the Dis-

trict Forest Officer and the Conservator of Forests. The Collector, however, is of opinion that they are somewhat too stringent. He would allow the under-growth to be cut for *ráb*, but would not permit any trees "likely to be of value as timber" to be lopped. He further considers that the villagers should not be restricted for their *ráb* supply to the forest lands of their own village. The Commissioner concurs generally with the Collector and holds that only the lopping of the more valuable trees should be prohibited, and apparently that the cultivators resident in non-forest villages should be permitted to take materials for *ráb* from the Government forests. The Governor in Council agrees with the Collector and Commissioner in thinking it inexpedient at present to prohibit the cutting of *ráb* in the Government forests but in view of all the circumstances of the case considers that in the interests of forest conservancy it is necessary to restrict within reasonable limits the exercise of the privilege. It will in his opinion suffice if the cultivators in forest villages are allowed to cut and collect for *ráb* for their own use in the Government forests free of charge grass, reeds, dead leaves, the ten classes of shrubs enumerated by the Forest Settlement Officer, and generally all brushwood of no value for other purposes. This privilege may be exercised only in the unclosed portion of the forest, except when the Forest Department officers consider that it can be permitted without injury in the closed portion also. The lopping of trees cannot be allowed, nor is there any reason why the inhabitants of villages in which no lands are included in forests should be permitted to take *ráb* materials from the Government forests. The cultivators in the latter class of villages must procure their *ráb* from their own *varkas* or other lands: they clearly have no claim to collect it in Government forests. In the case of the forest villages there is in the opinion of the Governor in Council no objection to allowing the cultivators of a village to obtain the materials the cutting of which for *ráb* is sanctioned from any part of the unclosed area of the forest block in which are included the forest lands of their village. It might be inconvenient to limit them only to the forest area within their own village boundaries as it possibly might happen that the whole or the great bulk of that area might be temporarily closed.

8. As regards firewood, the inhabitants of forest villages may be granted the privilege of collecting for their own consumption, but not for sale, the dead-wood in the unclosed portion of the forest block in which are situated the forest lands of their villages. This privilege cannot however be accorded to the inhabitants of non-forest villages who if they require fuel in addition to what they can procure from their own lands must purchase it from the wood depôts to be started by the Forest Department. It is proposed to establish five such depôts in the *táluka*. The sites selected seem suitable, and no time should now be lost in providing a sufficient supply of wood for fuel at each of the depôts. The Collector and the Conservator of Forests should be desired to arrange that effect is at once given to this order. Pending the establishment and stocking of these depôts the existing system under which head-loads of firewood are removed on payment of a fee may be continued, but as soon as the depôts are in working order this practice which is highly injurious to proper forest conservancy should be stopped. Care should be taken that the charges for firewood at the depôts are very moderate. It will also probably be desirable to provide at the depôts supplies of materials for *ráb* and wood for agricultural purposes for sale at fixed reasonable rates.

9. The Forest Settlement Officer states that much injury is being caused to the Government forests by the cutting in them of thorns for fences, the quantity taken at the nominal charge now made being exceedingly large and shrubs and bushes 10 to 15 feet high being cut down and carted away as thorns. He recommends consequently that "all cutting of brushwood for fencing should be strictly prohibited," and that the persons who now take thorns for fences—the owners of cocoanut gardens on the coast—should be required "to erect living hedges of Euphorbia round their gardens." As is, however, pointed out by the Commissioner live hedges cannot be produced in a day and until they are grown some artificial fencing is necessary. It is however essential to adopt some measures to check the serious injury to forests resulting from the present system and this can best be done by carrying out the suggestions originally made by the Collector, *viz.*, "limiting the number of thorny bushes to be used," forbidding branches or shrubs of over 1½ inches in diameter to be cut and levying a fee of one rupee per cart-load on thorns removed from the Government forests. This course should accordingly be followed.

10. In regard to the quarrying of stone within the forest area no special orders appear necessary. In Government Resolution No. 2309, dated April 23rd, 1881, the provisions of the law on the subject have been mentioned. It seems only desirable to add that the Governor in Council would wish that applications for permission to obtain stone and *muram* from the forest area should when preferred be speedily disposed of by the District Forest Officer and that all reasonable facilities for procuring what is required should be allowed when the quarrying of stone or the removal of *muram* is not likely to be injurious to the forests.

11. The privilege of gathering for sale or for their own use all wild fruits in the unclosed portions of the Government forests, as also in the closed portions where such a course would not in the opinion of the Forest Department officers be injurious to conservancy may be allowed to the inhabitants of forest villages. Government are not aware whether *hirda* nuts are grown in the Alibág *táluka* forests, but if they are produced they should there as elsewhere be strictly conserved to Government.

12. The Conservator of Forests should impress upon the officers in his Department connected with the Alibág *táluka* the necessity for the exercise of moderation by them in giving effect to the orders now passed by Government with a view to the improvement of the forests of that *táluka*. Those orders will doubtless prove to a certain extent distasteful to some of the inhabitants who will find that some requisite restrictions have been placed on the use previously made by them of the Government forests and their produce. It is therefore the more desirable that to avoid friction and the creation of needless irritation the subordinate forest officials should carry out their duties with tact and judgment and in a conciliatory manner, and should at first refrain from instituting criminal prosecutions in every petty case and for every trivial offence. It should suffice at first to administer warnings and reprimands. If no heed is paid to them it will then be proper to take more severe measures.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Conservator of Forests, N. D.,
The Collector of Kolába,
The Collector of Thána,
The Forest Settlement Officers, Thána and Kolába,
The Survey and Settlement Commissioner.

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*Forests: Report on the Settlement of the—in the Panvel Táluka of the Kolába District.*

No. 7579 OF 1883.

REVENUE DEPARTMENT.

Bombay Castle, 10th October 1883.

Memorandum from the Commissioner, N. D., No. 4395, dated 3rd September 1883—Submitting a letter No. 3588, dated 20th August 1883, from the Conservator of Forests, N. D., together with one No. 3587, dated 18th June 1883, from the Acting Collector of Thána, who forwards with his remarks a report No. 112, dated 12th idem, from Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the forest settlement of the Panvel *táluka*.

RESOLUTION.—Government have already remarked upon the great and unsatisfactory delay which has occurred in the preparation and submission of the report on the forest settlement and demarcation of the Panvel *táluka*, and it is unnecessary to refer now at length to this point. The Governor in Council would only express a hope that in view of the extreme importance of the completion of the forest settlement and the final determination of the various weighty questions connected with forest rights, privileges and conservancy in the Thána District the settlement of the remaining *tálukás* will be pressed on as speedily as possible. In the case of the Panvel *táluka* it appears that the requisite inspection and enquiries were made by Mr. Ebden, that that officer had written the bulk of the report and committed his proposals to paper before the meeting of the Forest Conference, but that the conclusions arrived at by the Conference led him to alter his views regarding the division of the forest lands between Reserved and Protected forests, and that before he could modify and complete his report he took furlough, leaving it to his successor Mr. Lawrence to finish and submit the report.

2. The Panvel *táluka* comprises an area of 196,348 acres. Of this area excluding certain salt-marsh lands which have since been disforested 46,892 acres were by Notification No. 4F., dated March 1, 1879, declared under Section 34 of the Indian Forest Act to be Reserved and Protected forests, $12{,}284\frac{9}{20}$ acres being notified as Reserved and $34{,}607\frac{11}{20}$ acres being notified as Protected forests. Mr. Lawrence proposes to retain as Reserved forest all the lands originally notified as such, to transfer to Reserved forest $17{,}125\frac{3}{20}$ acres first notified as Protected forest, to disforest $8{,}292\frac{9}{10}$ acres notified as Protected, and to add to the original forest lands $3{,}680\frac{3}{40}$ acres of which $2{,}602\frac{1}{20}$ acres would be constituted Reserved and $1{,}078\frac{3}{40}$ acres would be Protected forest. The net results of his proposals would be that there would be a Reserved forest area of $32{,}011\frac{27}{40}$ acres and a Protected forest area of $10{,}268\frac{1}{4}$ acres or $42{,}279\frac{37}{40}$ acres in all, exclusive of some forest lands in *inám* villages hereafter to be demarcated.

3. The Conservator of Forests, N. D., is unable to accept in their entirety the proposals on this head made by the Forest Settlement Officer. He objects to the disforestment of some of the lands which Mr. Lawrence proposes to exclude from forest, and he also objects to the retention in Protected forest of a considerable area of land which he holds should be converted into Reserved forest. In support of his contentions Mr. Shuttleworth has forwarded a shaded topographical survey map on a large scale of the *táluka* showing that a large proportion of the area which the Forest Settlement Officer suggests for disforestment consists of hill slopes which it is clearly desirable should be retained in forests, and that from its position and nature much of the land which Mr. Lawrence proposes to keep as Protected forest only should, in accordance with the recommendations of the Forest Conference which were approved by Government, be constituted Reserved forest. The views of the Conservator on this subject seem substantially correct, and there would seem little room for doubt both that much of the hill lands as shown on the map which Mr. Lawrence proposes to disforest should be retained as forest, and that the Reserved forest area should be larger and the Protected forest area less than Mr. Lawrence recommends. It is urged on behalf of the proposed disforestment of nearly 8,300 acres of land which now are forest that they are in the main detached numbers, that there is now no forest on them and that the Forest Department will have ample employment and scope for its energies in conserving the lands which are proposed to be retained as Reserved forests. But these arguments are by no means conclusive. Even if some of the lands are detached numbers yet they are of considerable size and are near other Government Reserved forests, and being for the most part bare hilll ands are unsuited for cultivation and in their present condition are of little value for grazing purposes. The fact that the trees on these lands have been cut down and the vegetation destroyed and that they are now a bleak waste furnishes no reason why an attempt should not be made to re-clothe them with forest. On the contrary it fenders it only the more desirable that endeavours should be made to cover them with jungle. The success of such endeavours is but a question of time, and as the Conservator, who may be regarded as the best judge of what work his department can

undertake and perform, is not only willing but anxious that these lands should be retained as forest and as no useful object will be attained by disforesting them, the proposals made by Mr. Shuttleworth concerning the lands to be retained in forests or to be disforested should be approved as being more judicious than those submitted by Mr. Lawrence.

4. Mr. Shuttleworth's recommendations regarding the distribution of the forest lands between Reserved and Protected forests are more in accordance with the proposals of the Forest Conference and the orders of Government than those made by the Forest Settlement Officer. Much of the land which Mr. Lawrence considers should be maintained as Protected forest should clearly on the principles propounded by the Conference be constituted Reserved forest. As a general rule all blocks of forest land on hill sides should if of any size be treated as Reserved forest. The careful conservancy of such lands is as pointed out by the Conservator of primary importance in the interests both of Government and the cultivators and this conservancy can only be ensured if the lands are Reserved forests. It is eminently improbable that any of the lands which Mr. Shuttleworth recommends for inclusion in Reserved forest could ever be needed or utilised for profitable cultivation being, as they are, unsuited for agriculture. All the lands therefore which the Conservator advises should be treated as Reserved forests and which have not already been declared to be such under Section 34 should now be notified under Section 4 of the Act. This will necessitate an inquiry being instituted by the Forest Settlement Officer but it will be almost if not entirely formal. If any real and strong objection is found to exist to the conversion into Reserved forest of any of these lands it can be brought to notice by the Forest Settlement Officer when submitting his report.

5. It is unnecessary to notify under Section 19 of the Act the lands which have already been notified as Reserved forests under Section 34. The Notification A. furnished by the Conservator should now be published. In the Notification B. submitted by Mr. Shuttleworth of Protected forests to be disforested the names appear of three villages (Wávje, Kegaon and Ráuwad) which are not to be found in the Notification No. 4F. of March 1, 1879. Explanation on this point is needed, but in order to avoid unnecessary delay the notification should be published omitting the lands in these three villages. No further notification is required concerning the lands which have been notified as Protected forests under Section 34 and are to be continued as forests of that class.

6. The Forest Settlement Officer states that no formal inquiry concerning rights in the Protected forests has been made as he has no jurisdiction to decide claims to rights in such forests. He would however appear to be under some misapprehension as to the law and the orders of Government. It is for the Forest Settlement Officer to make such inquiry and decide upon such claims. He is the Settlement Officer for Protected as well as for Reserved forests and when making his settlement of the *táluka* he should inquire into and dispose of all claims to rights in either class of forests. In future this course should invariably be adopted, and the Forest Settlement Officer now when inquiring into claims to rights in the lands to be notified under Section 4 should make a like inquiry in respect of the lands which are to be retained as Protected forests.

7. The Forest Settlement Officer has found in his judicial capacity that no rights save some of way, have been proved to exist in the lands notified as Reserved forests under Section 34. The Governor in Council entirely agrees in the conclusions on the subject of the claims preferred to certain rights stated in the extract from Mr. Ebden's draft report incorporated in Mr. Lawrence's report, and is of opinion that those claims were properly rejected.

8. It has now to be considered what privileges should be allowed in the lands declared to be Reserved forests in the Panvel *táluka* or now to be constituted as such. It is clear that the almost unrestricted privileges which the villagers seem hitherto to have enjoyed and to have exercised to the serious injury of the Government forests can no longer be continued to them. Under such a system as that described efficient forest conservancy was impossible. When every man who wanted any wood or forest produce went to the nearest Government forest and took what he required without permission and without payment it is not surprising that the timber and the jungle were rapidly disappearing. But now stricter conservation is possible in addition to being imperatively called for. Privileges and their exercise must be restrained within reasonable limits, though bearing in mind the freedom which has hitherto prevailed and the fact that a considerable portion of the *táluka* will henceforth be included in the Reserved forest area it will be but proper and politic to treat the villagers liberally in respect of the privileges which are in future to be allowed to them.

9. The heads under which privileges have to be granted are the following: (1) the collection of fruits and minor forest produce, (2) grazing and grass-cutting, (3) collection of firewood, (4) collection of leaves and thorns, and (5) collection of materials for *ráb*. The Reserved and Protected forests will be divided into blocks which again will be sub-divided into compartments. The compartments will be closed in rotation. The proportion of the area of a block to be closed at one time should be fixed at one-fourth except in the case of the four blocks mentioned by the District Forest Officer, South Thána, in para. 9 of his letter No. 595 dated July 16th last where for the reasons assigned

by Mr. Wilkins it should be fixed at one-half. The exercise of the privileges conceded will be allowed in the unclosed portions of the various blocks and also in the closed portions when the District Forest Officer considers that this can be permitted without injury to the forest.

10. As regards the collection of fruits and minor forest produce this privilege may be granted free to the inhabitants of forest villages, and may probably be exercised in the closed as well as the unclosed compartments. *Hirdas, shikákai,* and *mowra* flowers should be strictly reserved to Government. The *mowra* is at present a reserved tree: its flowers are a forest product, and belong to Government where the trees are growing in Reserved and Protected forests. The same departmental system of collection as has been successfully adopted in the case of *hirda* nuts should be followed in the case of *mowra* flowers. The flowers when collected in the forests should be brought to the forest depôts where they will be paid for at a certain fixed price per seer to be determined from time to time by the District Forest Officer and the Collector after consultation with the Commissioner of Customs, Salt, Opium and Ábkári, the rate being settled so as to afford a fair remuneration to the persons gathering and bringing in the flowers and at the same time to secure Government against incurring any loss on the transaction. The only other articles of minor forest produce which should be reserved to Government are the leaves of the *ápta, tembhurni* and *palas* trees. The Forest Settlement Officer suggests that their collection should be allowed to the inhabitants of forest villages, but as is pointed out by the Conservator of Forests these leaves possess a considerable market value, bring in annually a material sum to forest revenues, and are now reserved to Government. No cause is shown for granting in respect of these leaves a concession which has not been enjoyed by the villagers since the Indian Forest Act came into operation.

11. As regards grazing the inhabitants of forest villages, other than professional graziers occupying land bearing an assessment of less than Rs. 20 per annum, may be allowed to graze their cattle free of charge in the unclosed portions of the Government forests: they may also be permitted to cut grass free of charge for their own use in the unclosed compartments, and, in cases where the District Forest Officer sees no objection, in the closed portions also of the Reserved Forests, and in the whole Protected forest area. Inhabitants of non-forest villages and Dhangars, other than men of that class residing in forest villages and holding land assessed at Rs. 20 per annum or upwards, may be allowed to graze their cattle in the unclosed portions of the Government forests, as also in the closed portions with the permission of the District Forest Officer, on payment of fees at the rates prescribed for the Mahábaleshvar Reserved forest and subsequently introduced into the Alibág *táluka* and elsewhere.

12. In the matter of firewood the same privileges may be allowed in the Panvel *táluka* as have been accorded in the Alibág *táluka*. The inhabitants of forest villages may be permitted to collect wood for fuel in the unclosed portions of the Government Reserved forests, and, when the District Forest Officer perceives no objection, in the closed portions also, and in all the Protected forest area. The fuel so collected is to be for their own use and not for sale. Government are not however prepared to concede this privilege to the inhabitants of non-forest villages. Such persons have no claim to collect firewood in lands beyond their own village limits and must in Panvel as in the other *tálukás* of Kolába obtain any firewood they may require beyond what their own lands can supply by purchase either from the forest depôts or from private wood dealers. There is no reason why they should not grow wood for fuel on their own lands and they may probably be induced to do this when they find that they can no longer take at their own free will from the Government forests wood to which they have no title. Steps should at once be taken to establish depôts for the sale of wood for agricultural and domestic purposes and for fuel in the Panvel *táluka*. The places at which the depôts should be located must be left to the discretion of the Collector in consultation with the District Forest Officer, but it is essential that their number should be sufficient—at least 6 will be necessary, and probably it would be well to increase the number to 8—that they should be kept fully stocked and open on certain fixed days weekly and that the wood should be sold at very moderate prices. It is probable that the necessity for the maintenance of the depôts will not very long continue. One result of the restrictions now to be imposed on the collection of wood in the Government forests will in all likelihood be to give a stimulus to the private wood trade and to lead to the establishment by petty dealers of numerous shops at which wood will be sold by retail, and when this has been done the need for the continuance of the departmental depôts will cease as the wants of the population of the non-forest villages can then be supplied by private dealers. When cuttings are being made in the Government forests due and timely notice of the fact should be given in the non-forest villages and persons should be encouraged to buy there any wood which they may require for fuel or other purposes.

13. With reference to leaves the villagers of forest villages may be allowed to gather free of charge all leaves save those of the *tembhurni, palas* and *ápta* trees in the unclosed portions of the Government forests, and there would appear to be no objection to permitting the exercise of this privilege in the closed as well as the unclosed compartments. The demand for thorns for the fencing of fields and gardens is limited, and

as considerable injury is caused to the forests by the indiscriminate cutting of thorns the Governor in Council is of opinion that thorns should only be taken on the conditions prescribed in the Alibág *táluka, viz.*, that branches or shrubs over 1½ inches in diameter should not be cut, and that a fee of one rupee should be levied on each cart-load removed.

14. As regards *ráb* the same privileges may be allowed as have been sanctioned in Alibág. The inhabitants of forest villages may cut and collect for *ráb* for their own use, free of charge, grass, reeds, leaves (other than *tembhurni, palas* and *ápta*) the ten classes of shrubs mentioned by Mr. Hamilton in his report on the Alibág Forest Settlement and generally all brushwood of no value for any other purpose. No trees of any description in the Reserved forests are to be lopped, but in the Protected forests all trees other than those belonging to the twenty-five varieties specified by the Conservator in para. 34 of his letter may be lopped. These privileges are only to be allowed in the unclosed portions of the Government forests, except when the Forest Officers consider that all or any of them may be permitted in the closed compartments. For the reasons assigned in para. 7 of Government Resolution No. 1203, dated February 14th last, on the forest settlement of the Alibág *táluka*, the privileges thus accorded to the inhabitants of forest villages cannot be extended to the inhabitants of non-forest villages. If the latter class of cultivators is unable to obtain from the *varkas* lands comprised in its holdings a sufficient supply of materials for *ráb* it must procure what it requires by purchase from private dealers or from the forest depôts, or in the manner proposed by Mr. Wilkins in para. 18 of his letter which would appear to be on the whole the best and most convenient plan yet suggested. Every facility should be given by the Forest Officers to persons standing in need of materials for *ráb*, and the price charged at the depôts for such materials should only just cover the cost of cutting them and conveying them to the depôts. Where under Mr. Wilkins' plan the materials are cut by the cultivators themselves under passes granted by the Forest Officers the charge should be merely nominal, not exceeding an anna per cart-load. It should be borne in mind that the sole object of Government in placing restrictions on the collection of materials for *ráb* in the State forests is the more effectual conservation of those forests and that those restrictions are not imposed with a view to increasing the revenue of the Forest Department.

15. It is necessary to make special provision in regard to forest privileges for the Thákurs, Kátkaris and Várlis, of which last tribe however there are few, if any, in the Panvel *táluka*. They should be granted all the privileges accorded to the inhabitants of forest villages and in addition should be allowed to cut grass and collect and remove dead-wood for sale free of charge, being however warned that the last mentioned privilege will be revoked if it is found to be abused by them by the destruction of live wood one season to ensure a large supply of dead-wood in the next. Their services should be fully utilised by the Forest Department in the collection of the reserved minor forest products such as *hirdás, mowra*, &c.

16. The Forest Settlement Officer recommends the acquisition for forests of certain numbers at present occupied mentioned in Appendix F to his report. His proposals are sanctioned and the Assistant or Deputy Collector in charge of the *táluka* should adopt the steps requisite to obtain possession of these numbers by exchange or purchase. In future the Forest Settlement Officer when making the settlement of a *táluka* should take up when possible the occupied lands which he considers should be obtained for and included in forests.

17. Government concur in the remarks made by the Conservator of Forests in paras. 31 and 32 of his letter. The forest boundaries should be distinctly defined and marks erected to show clearly the forest limits. The survey maps should be rectified and the survey numbers of the lands altered where necessary. Maps also prepared as suggested by Mr. Shuttleworth should be furnished to the Conservator by the Forest Settlement Officer.

J. NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Commissioner, S. D.,
The Collector of Thána,
The Collector of Kolába,
The Conservator of Forests, N. D,
The Forest Settlement Officer, Thána,
The Survey and Settlement Commissioner,
The Commissioner of Customs, Salt, Opium and A'bkári (with a copy of Government Resolution No. 3829, dated 18th May 1883),
The Accountant General.

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*Forests : Forest Settlement and Demarcation of the Panvel Táluka of the Kolába District*

No. 6331 OF 1885.

REVENUE DEPARTMENT.

Bombay Castle, 6th August 1885.

Memorandum from the Commissioner, Southern Division, No. 1773, dated 7th July 1885—Submitting, for orders, memoranda from the Collector of Kolába and the Conservator of Forests, Southern Circle, together with a report No. 96, dated 28th March 1885, by Mr. Sinclair, Forest Settlement Officer, Kolába, on the Forest Settlement and Demarcation of the Panvel *táluka* proper : appending a subsequent correspondence ; and making remarks.

Memorandum from the Forest Settlement Officer, Kolába, No. 211, dated 24th July 1885.

RESOLUTION—The mode in which the Forest Settlement Officer, Mr. Sinclair, has submitted his demarcation proposals, and the method adopted by him in the preparation of the appendices and schedules annexed to his report render it a matter of some difficulty to ascertain with exactitude what his recommendations are. The figures, however, furnished by the Commissioner, Southern Division, although in one particular not altogether accurate show what Mr. Sinclair's suggestions in reality are.

2. Mr. Lawrence in his report on the forest settlement and demarcation of the Panvel *táluka*, on which orders were passed in Government Resolution No. 7579, dated October 10th, 1883, proposed to make large additions to the then notified Reserved forest area (12,284$\frac{8}{20}$ acres as stated by him) which would bring it up to 32,011 $\frac{27}{40}$ acres, and to leave as Protected Forest 10,268$\frac{1}{4}$ acres, thus placing under forest conservancy a total area of 42,279$\frac{35}{40}$ acres. The Conservator of Forests raised various objections to the demarcation thus advocated, and further investigation and report by the Forest Settlement Officer were directed by Government. This investigation has been made by Mr. Sinclair and its results and his opinion are embodied in the report now under consideration.

3. Mr. Sinclair's proposals, briefly stated, are to add to the Reserved forest area (12,285$\frac{1}{20}$ acres according to the figures furnished by him) 8,179$\frac{5}{8}$ acres of land already notified under Section 4 of the Indian Forest Act, thus increasing that area to 20,464$\frac{7}{40}$ acres, to disforest 9,512$\frac{3}{40}$ acres of land now in Protected forest, to retain of the existing Protected forest lands 13,057$\frac{9}{10}$ acres as Protected forest and to add to it 643$\frac{3}{8}$ acres of land which can be notified at once under Section 28 as Protected forest, thus giving a total Protected forest area of 13,701$\frac{11}{40}$ acres. The result of this demarcation would be an aggregate forest area of 34,165$\frac{19}{20}$ acres, or 8,114 acres less than that proposed by Mr. Lawrence. It meets with the full approval of the Conservator of Forests, Southern Circle, and is supported by both the Collector and the Commissioner. The most noticeable features are the small addition to the Reserved forest area as compared with that recommended by Mr. Lawrence and the still larger increase urged by Mr. Shuttleworth, the considerable aggregate decrease in the forest area, and the large acreage of land thrown entirely out of forest. These results, as explained by Mr. Sinclair, are due to several causes. It has been found impossible to obtain by purchase or otherwise any of the occupied land included in the demarcation proposals of Messrs. Lawrence and Shuttleworth. Much of the Protected forest recommended for conversion into Reserved forest is so mixed up with occupied land, so traversed by paths and tracks, and so dotted with the habitations of wild tribes that any strict conservancy of it as Reserved forest would be impracticable, and the attempt to preserve it rigorously would prove productive of great friction and discontent. The necessity for making sufficient provision for pasturage has also stood in the way of the change of some of the lands from Protected into Reserved forest. To these three causes is mainly attributed the comparative smallness of the area now proposed to be added to Reserved forest. The large area of Protected forest to be disforested is accounted for by the fact that Mr. Sinclair advises the exclusion from forest of two whole blocks, those of Chindran and Aure, and a number of isolated patches, described as " sheet rock, salt marsh, village greens and the like." No detailed reasons are given for the various disforestments recommended, but as both the Conservator of Forests, Southern Circle, and the Collector approve of the measure and the Divisional Forest Officer has seemingly raised no objection, the proposals now submitted may be sanctioned.

4. The notifications required to give effect to these proposals should be issued at once. It seems expedient, as is apparently suggested by the Forest Settlement Officer, to publish lists showing the Reserved forest lands and the Protected forest lands as now finally decided upon, with the latest additions. The large area of land to be retained in Protected forest seems advisable in view of the circumstances mentioned by the Forest Settlement Officer—its utility as pasturage, and its greater value as producing grass than as growing timber, as also the difficulty which would arise in places in conserving it as strictly as would be the case were it constituted Reserved forest.

5. It will be for the Collector and the Conservator of Forests to arrange for the proper marking off of the limits of the forests by cairns or other suitable boundary marks. Colonel Peyton should be requested to report whether he would now propose to depute a

Sub-Assistant Conservator to superintend this work. The Governor in Council observes that Mr. Sinclair states that the marks erected by Mr. LeMesurier's party of the Revenue Survey "are so good and so well placed that they are quite sufficient for the Protected forest."

6. When Mr. Sinclair wrote his report the Resolutions recently issued in connection with the Kalyán, Bhivándi and Bassein *táluka* forest settlements had not been published. But his report shows that the privileges granted by the orders contained in Government Resolution No. 7579, dated October 10th, 1883, together with the concessions lately allowed for all settled *tálukás* of the Thána and Kolába districts will tend to meet legitimate requirements and reasonable demands. The Commissioner "doubts whether the concessions already granted have gone far enough." The Governor in Council would however note that the concessions suggested by Mr. Sinclair have been allowed. Not a single fruit has been reserved by Government. The restrictions on the collection of *hirdás, mowra* flowers and *shikákai* cannot press hardly on the inhabitants of Panvel seeing that on Mr. Sinclair's own showing there is only one *hirda* tree in the whole *táluka*, that only a few *shikákai* trees are to be found in two villages, and that there are no *mowra* trees in the *táluka* which will be capable of producing flowers for at least ten years to come. As regards leaves forest villagers have now been permitted to take for their own use free of charge the variety (*palas*) on which the Forest Settlement Officer lays most stress and the wild tribes have been allowed to take them for their own use and for sale. Teak leaves may also under a recent order be taken from trees in Protected forest and in occupied numbers where the trees are still the property of the State. *Tembhurni* and *ápta* alone are reserved. The *tembhurni* or ebony tree is reported to be rare, whilst the *ápta* is declared to be common not only in forest but also in occupied lands. The villagers therefore can experience no difficulty in obtaining the supply of *ápta* leaves they need for cigarettes from their own trees on their own holdings. In the matter of thorns the forest villagers have been allowed to take free and without a pass from the Protected forest such thorns as they may need: in the case of Reserved forest thorns may be taken with a pass but without payment from the unclosed portions. The Governor in Council has no objection to fishermen being allowed to cut free of charge the creeper called Dhause to make the withes used in fixing their stake nets, or to the cutting of mangrove to repair breaches in embankments.

7. The privileges permitted in respect of the collection of the materials for *ráb* are now wide and extensive. When Mr. Sinclair wrote the sanction to the lopping of the four most useful trees for *ráb—nána, ain, bonda* and *dhávda*—in Protected forest had not been accorded as it since has been, but though this very important concession had not then been granted Mr. Sinclair in March last wrote that "with such bushes as grow in their own "*varkas* land and in areas which I propose to disforest or treat as Portected forest the trees "belonging to the people will suffice for the villages having no Reserved forest, and that "the inhabitants of villages in which nearly all the waste land is Reserved forest will be "easily provided for by their own *varkas* lands and some little allowance from the open "blocks. I do not think that the villagers of non-forest villages as a body will come any "great distance to buy *ráb*. In short I expect the question under a reasonable demarcation "to settle itself." "The little allowance from the open blocks" above referred to has already been permitted, and the departmental annual fellings ordered to be made in the Resolutions on the Kalyán and Bassein settlements will provide a considerable additional quantity of *ráb* materials for forest villagers.

8. Mr. Sinclair's remarks on the subject of *ráb* are of interest, but it is not possible to generalise from isolated instances as to the area of *varkas* land required for an acre of rice or *nágli* cultivation.

9. As regards the removal from forests lands of earth and stones required for agricultural purposes orders have already been passed permitting villagers in the settled *tálukás* of Thána and Kolába to take such materials free of charge from the Protected forest, and with the previous leave of the forest round guard from the unclosed portions of Reserved forest.

10. In respect of grazing there would seem to be no reason for an enlargement of the liberal privileges sanctioned in the previous Resolution on the settlement of the Panvel *táluka*, No. 7579, dated 10th October 1883. Under that Resolution the inhabitants of forest villages, not being professional graziers, were allowed to pasture their cattle free of charge in the unclosed parts of the Government forests and to cut grass throughout the Protected forest and in the open portions of the Reserved forest. The large reduction of over 8,000 acres in the aggregate forest area as contemplated in the previous Resolution and the extensive disforestment of Protected forest lands now sanctioned, combined with the fact that the Protected forest area will be more than 3,400 acres greater and the Reserved forest area will be over 11,500 acres less than was originally contemplated, render any increased privileges under the head of grazing unnecessary. Mr. Sinclair observes in paragraph 21 of Appendix A to his report "in the meantime what the forest villagers want "(except leaves for thatching, &c.)" which have now been allowed "is all granted to them "by Government Resolution No. 7579 of October 10th, 1883." In the case of non-forest villagers a moderate fee of 2 annas per head of horned cattle may as suggested be charged for grazing in the Government forests, but for professional graziers the scale of fees should

certainly not be less than one-half of the Mahábaleshvar rates, *i.e.* 4 annas per buffalo and 3 annas per head for other horned cattle, if the full Mahábaleshvar scale is deemed too high. In the case of the valuable grass *kurans* referred to in paragraph 18 of Mr. Sinclair's Appendix A the grazing and grass cutting should as heretofore be sold annually by auction, no permissive privileges being allowed.

11. The Governor in Council regrets to learn that in Panvel as elsewhere the privileges granted to the wild tribes have been abused by them. The subject of the wild tribes, their privileges, and their employment by the Forest Department will be considered by the Commission recently appointed, of which the Conservator of Forests, Southern Circle, is a member, but in the meantime the Governor in Council trusts that Colonel Peyton will be able to devise measures to check the abuse of privileges and to provide occupation for the wild tribes, and where the supply of dead-wood in the forests of a village or group of villages is only sufficient to meet the wants for local consumption of that village or group of villages, only the members of wild tribes resident in the village or villages in question should be allowed to gather and sell the dead-wood found in the forests. Government will be glad to be informed what exactly are the arrangements made respecting the grant of forest land to the wild tribes.

12. Mr. Sinclair should he thanked for the interesting appendices attached to his report which contain much valuable information and show how thoroughly he has studied the subjects of which they treat.

J. NUGENT,
Secretary to Government.

To

The Commmissioner, S. D.,
The Collector of Kolába,
The Forest Settlement Officer, Kolába (with the maps),
The Conservator of Forests, S. C.,
The Director of Agriculture,
The Collector of Thána,
The Conservator of Forests, N. C.,
The Forest Settlement Officer, Thána,
The Commissioner, N. D.,
The Editors' Table, Bombay,
The Branch Editors' Table, Poona, care of the City Magistrate, Poona.

## APPENDIX A. TO MR. SINCLAIR'S LETTER No. 96 OF 1885 TO THE ADDRESS OF THE COLLECTOR OF KOLÁBA.

*Note on the Lands supplying Grass to the Bombay Market and on Hill Soils in the Kolába District.*

Import by rail small.

The supply of grass to the Bombay Market depends on a very limited area. Unpressed grass is a very inconvenient, expensive and dangerous material to transport by rail, and pressed or half-pressed grass is as yet (I believe) only used by the Bombay Tramway Company. It was very largely exported by Government to the Famine Districts in 1877, but did not, where I saw it, find much favour with natives then, and no great development of a traffic in pressed forage can be looked for at present. The railways, therefore, bring comparatively little grass to Bombay now; and probably will not bring much for many years to come.

By cart from Sálsette only.

2. The import by cart is chiefly from the Sálsette *táluka* which includes most of the area near enough to Bombay for that method of carriage to pay its way.

Chief import by harbour creek.

3. But the greater part of the grass brought into Bombay is water-borne on the creeks opening to the harbour. It cannot be brought from other parts of the coast (unless pressed) because the grass boats, which when laden are mere floating hay stacks, dare not face the open sea in the calmest weather, and there is great danger of fire if they are obliged to moor for a tide in any place where the men cannot go ashore to cook their meals.

None by open sea, &c.

Supply very important.

4. It is therefore clear, I think, that any measure affecting the production of grass near the creeks opening on the harbour, should be very carefully considered. In the correspondence summed up in Government Resolution No. 7579 of 10th October 1883, the grass question does not seem to have been brought to the notice of His Excellency the Governor in Council at all; and the whole discussion seems to have turned upon the clothing of the hill lands, with arboreal vegetation, of which it is the custom to assume that they have been denuded by the action of man.

Present distribution of grass and wood land in Panvel is of old standing.

5. This is impossible to prove or disprove, but from the printed survey records and a careful examination of the grounds, I am certain that the grass lands and wood lands were, in what I may call the survey lustrum, (1855—60, during which most of the survey and settlement work of this area was done), very much as they are now, and from some remarks occurring in the correspondence on the settlement of the old Taloja *táluka*, it would appear that the same was the case in part of that *táluka* when Mr. Davies made the earliest settlement worth talking of in 1835-36.

6. It seems probable, however, from the internal evidence of the lands themselves that a great part of them can never have borne timber of any great dimensions at all, and it is worth while here to describe and classify roughly the hill soils of the region in question.

7. These are all *murams* or thin gravelly soils produced by the decay of various trappean rocks I need not go into the subject as a geologist. From that point of view it is amply treated of in the geological survey's manual for India and in the valuable little pamphlet published for the Bombay Gazetteer. It is enough to repeat that our hill soils are all *murams* thinly overlying the bed rocks by whose decay they are caused. We have no areas of clay, no diluvial grounds as on some hills of northern countries, and no black soil plateaux such as are found in the Deccan.

8. In the Kolába District there is not even a single laterite plateau like that (to quote the nearest example) of Mátherán.[1]

9. Only where on any plateau, a tank or rice field has been artificially formed, we find it filled with a silt, varying according to the nature of the rocks around from the stiff clay of the lowland rice field to a black loam resembling that of the Deccan.

Soils

10. The first and best of the *murams* are the dark red and brown. They are always found with soft bed rocks, varying in structure but universally full of crevices and easily broken up. Sometimes the rock decays into globules almost as regular as buckshot in size and shape. But in all cases they constitute the best hill soil for vegetation of all sorts. Mango cultivators sometimes cart it some distance to their orchards.

11. The second is the grey crumbling *muram* usually formed by the decay of concentric masses resembling huge onions (the weathered surface of which is of a dark brown colour). The bed rock often looks solid, but where it has been long exposed, can be cut into with the end of a stick or by a pick with a heavy beat, under which it literally crumbles away. This soil is very favourable to grass; and in sheltered places trees and shrubs do well upon it; but it does not seem, as a rule, to be capable of supporting lofty vegetation in places exposed to the full sweep of the monsoon, and the trampling of men or (still more) of cattle destroys its surface so easily that no plantations could be expected to thrive on it, unless very carefully fenced and protected. This is the characteristic soil of some of our principal *kurans* (natural hill meadows) and it is well exemplified on parts of "*Vulture's Nest*" spur at Uran.

[1] The hog-backed crest of Mira Dongar in Pen, and some spots in the west of Mángaon, have remains of a layer of laterite which once, probably, covered the whole District.—*W. F. Sinclair.*

12. The third class of *murams* is that formed by the weathering of the hardest basalt (clink-stone). They vary in colour, some are a pale red, probably coloured by the remnant of old laterite beds long washed away, some brown, but the prevailing colour is grey. The formation however is always unmistakeable, the fragments are hard, harsh and angular, and in the areas occupied by the soil innumerable detached polygonal masses of the bed rock usually stick up in all directions, the *muram* indeed merely filling the crevices between them. The main mass of the bed rock just below is usually solid and impermeable, and on such soils the grass is never good for anything but pasture, and arboreal vegetation is poor and scanty; the only plant which seems to thrive on them is the perverse and poisonous euphorbia, which so often refuses to flourish in good soil when planted as a fence.

13. One very peculiar class of soils depending less on the bed rocks than on position deserves separate notice on account of its special importance from a forester's point of view.

Soils.

14. This is the *tálus* (as Engineers call it) *i.e.*, the heap of fragments formed against the base of every scarp in the hills by the fall of blocks from above. The *tálus* generally gets sooner or later to the angle of rest (about 45 degrees) and its crevices get gradually filled up with material washed down from above, sometimes of very good quality. As its base is usually an impermeable sheet of rock, there is frequently water there, derived from the hills above, and the blocks themselves (and the scarp from which they have fallen) give shade and protection to seedlings springing up in the soil lodged between them: accordingly on nearly every hill, we find close under the scarp the long belts of wild mango and other evergreen trees which we call "*ráis*" "*vans*" or sometimes (in this district) *rahaths*. The so-called "Forest Primeval" at Mátherán is a fair sample; and where there is no timber either above or below there is often enough in such a position to justify the proclamation of a Protected forest.

The red grass.

15. The principal grass on all these hills, and the only one recognised as a marketable forage, is a red-headed grass of which I do not know the scientific name, but any reader may see a sample by going to his own stable. It thrives, like everything else, best upon the soft red and brown *murams*, fairly well upon the crumbling grey rocks, and is dwarfed upon the harsh clink-stone soils, though even there it springs up between the stones in sufficient quantity to be of much value as pasture, and to take the burden of the horned population off the better soils which produce a marketable forage. The average length of the stem when full grown is about 30 inches on tolerable soil, though it looks less (being crooked), and of course the grass as brought to market is much shorter, losing in the cutting, and being much broken in transit. From measurements taken in *muram* pits and such places I find that the penetration of the roots varies very much. In some cases it is as much as 4 feet; but I should say the average is not above 18 inches, and of course, where the *murum* lies thinly on an impenetrable bed rock, the roots must be short in proportion to the space for them. They have, however, great power of penetration through the softer rocks. This grass will not grow within shade nor am I aware of any marketable grass common in this district that will. Wherever the jungle is thick we find the space between the tree-stems occupied not so much by grasses as by herbs, mostly of little or no value as forage; although in other parts of the Presidency very good pasture and even grass fit for the market is produced in pretty thick forests:—

Grass lands.

16. The lands which produce the grass are.

*First.*—The occupied *varkas* numbers.

*Second.*—The Government *kurans* and unoccupied assessed *varkas* numbers both put up to yearly auction.

*Thirdly.*—The free village pastures.

17. Throughout the area which supplies Bombay, occupied *varkas* land is more generally devoted to raising grass for that market than to the cultivation of coarse grains and in many villages it is used for the former crops alone. The grass requires nothing but fencing, watching and harvesting and this is particularly an advantage to the many Pándharpesha holders who live in towns and do not cultivate their own lands, and to capitalists who have taken up land as a speculation. One result is that the cattle of the grass-supplying villages depend entirely, during the rains, on the Government free pastures for standing room and food, being as strictly excluded from the *varkas* numbers as from the rice lands. The tendency in this direction was noticed as long ago as 1857 by the Survey officers. Another is that the *varkas* has even more of a tendency to pass out of the hands of the cultivators into those of capitalists than the rice land, (because these latter find it easier to manage from a distance), and so there are now, probably, more holders of rice land without *varkas* than there were at the Survey; and this also of course throws an extra demand for *ráb* upon the jungles. (I may remark here that outside the grass-supplying area a similar effect is produced by the conversion of *varkas* into rice lands.)[1]

No extension of cultivation in the grass area of *varkas* crops.

18. Another bearing of this application of *varkas* land as natural meadow is that it removes from consideration, in connection with forest demarcation, the subject of extension of cultivation.

19. In the villages under discussion if an unoccupied *varkas* number is given (by auction or otherwise) to a cultivator, he does not extend cultivation on it but just goes on doing with it what Government was doing before, so that the country at large is no better or worse off than it was, and Government gains or loses by the transaction according to the

[1] The "grass area" in the Kolába District includes the whole of Panvel, and a large and increasing proportion of Alibág and Pen. The *Kuran* which sends its grass from the greatest distance now (1886-87) is Vadval, 16½ miles from Antora Bunder.—*F. W. Sinclair.*

difference plus or minus of the amount realised annually by auction and the assessment. As regards the Government *kurans*, some of them supply grass to the market direct but some are only used as pastures, the villagers bidding for them annually for that purpose or making an arrangement to the same effect with the purchaser at the auction; and the same with the unoccupied assessed *varkas* numbers. They are few and would all have been occupied long ago but for the objection to giving out lands which might be required for forest. For the reason given above, this is not a misfortune in this areas, where the occupancy would not really have altered the case made of the land, whether for pasture or as meadow.

*Kurans* or uplands.

20. All the principal *kurans* have been included in forest, and those so included in the Panvel *táluka* were sold this year to a single farmer for Rs. 2,151 which, as their area is 2,857 acres, is a little better than 12 annas an acre. As the maximum *varkas* rate under the current settlement is 4 annas an acre, it is obvious that Government gains considerably by retention of land under grass in its own hands, and no body else is any the worse. I have not thought it right to harass the *mámlatdár* for statistics as to his grass sales, which would be more troublesome to compile than those of the forest *kurans;* but the assessed unoccupied numbers, though of various quality, may be fairly assumed to be on an average at least as valuable per acre. In none of these *kurans* and assessed unoccupied numbers has any body any rights but of way and water, and it might be worthwhile to request the orders of Government as to whether the permissive privileges granted by Government Resolution No. 7579 of 10th October 1883 apply to them or not. As far as I can make out, the question has never been raised and the sale this year was merely proceeded with in continuance of former practice.[1]

Free Pastures. Bad lands, but relieve better to supply Bombay.

21. The third class of grass lands are the free village pastures. These are mostly bad lands incapable of producing marketable forage but valuable as relieving the better natural-meadows from the stress of the local cattle. The printed survey papers relating to the original Panvel *táluka* give no information about them; but from those of the Taloje *táluka* it is clear that there were no free pastures there before the Survey. Apparently the villagers themselves paid for pasture on these lands annually. The papers seem to show that this practice was in existence as long ago as before Mr. Davies' survey and settlement of Taloje in 1835. Their existing rights are therefore statutory, under Section 38 of the Land Revenue Code which requires the formal sanction of the Commissioner before the land can be appropriated to any other purpose. (Repealing Act I. of 1865, Section 32).

Villager's view of pasture question.

22. The claims of the people, when one can get at them without intermediacy, are for pasture, not necessarily for free pasture; and although I should not on any consideration recommend the breach of a settlement guarantee during the currency of the settlement, I think that at revision an arrangement by which the villagers should pay for their pasture would not be unfair. At present I have no doubt that the free pastures are to a considerable extent used by cattle for whose use they were not intended; and I doubt if this can be checked otherwise than by the villagers themselves.

23. In the mean time what the forest villagers want (except leaves for thatching, &c., which do not form part of the subject of this paper) is all granted to them by Government Resolution No. 7679 of 10th October 1883. As long as they get what they want they care really very little whether it is called a right or a permissive privilege.

24. The existing danger is that of the orders referred to not being carried out, and that of the future is of their being altered, and the grass-bearing area restricted in an attempt to substitute timber. Such an attempts if made, will be attended with very serious dislocation of the agricultural economy of the district, and with discontent in proportion. In its bearing on the local herds it may probably favour an outbreak of disease, and its effect on the forest tribes (who are largly employed in the grass business) will probably be felt in an increase of predatory crime. The experiment moreover in the great part of this area will be one of heavy cost and little profit.[2]

Effect of grass on hill sides.

25. It only remains to say as to the question of arresting the silting of Bombay harbour has been imported into this matter that I do not believe that any measures within the powers of the Forest Department can effect that matter one way or another. In such a district as the Konkan, we are powerless against the monsoon and the mountain as Mrs. Partington against the Atlantic, and we may safely confine ourselves to the more prosaic consideration of the management of Government property to the best profit.

26. But I have been present at experiments in France and Ireland which showed conclusively that on certain classes of ground grasses are a better protection to a hill side than trees or brushwood, and arrest on it more silt brought from higher elevations than the latter can, and some observations taken in the Panvel *táluka* during the rains of 1884 confirm this experience.

27. The truth is, no hard-and-fast rules can be laid down on such a subject, and nothing is a safe basis for conclusions but systematic field work.

W. F. SINCLAIR,
Forest Settlement Officer, Kolába.

*P.S.*—It may be added to the above that the grass supply of Bombay becomes an Imperial concern whenever that port despatches an expedition including artillery, cavalry or transport animals.—W. F. S.

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[1] The forest *kuran* area might be very largely extended without injustice or hardship and with great benefit to the revenue.

[2] These dangers may now be said to have passed away, for the present (1887) at any rate.—*W. F. Sinclair.*

*Forests, Kolába: Report of the result of the enquiry made by the Forest Settlement Officer into rights in Protected forests in the Uran Mahál.*

No. 3055.

REVENUE DEPARTMENT.

Bombay Castle, 16th April 1885.

Memorandum from the Commissioner, S. D., No. 813, dated 20th March 1885—Submitting for orders memoranda from the Conservator of Forests, S. C., and the Collector of Kolába, together with a letter No. 168, dated 21st December 1884, from the Forest Settlement Officer, Kolába, who reports the result of the enquiry made by him in accordance with Government Resolution No. 7579, dated 10th October 1883, into rights in the Protected forests in the Uran *mahál* of the Panvel *táluka*.

RESOLUTION.—The Forest Settlement Officer, Kolába, reports the results of the enquiry made by him in respect of the lands notified as Protected forests under Section 34 of the Indian Forest Act in the Uran *mahál* of the Panvel *táluka* of the Kolába District; and the proposals submitted by him meet with the full concurrence of all the officers who have recorded their opinions.

2. As the result of his enquiries Mr. Sinclair recommends that lands measuring $871\frac{11}{20}$ acres be altogether excluded from forests. Of this area $621\frac{3}{20}$ acres form two survey numbers in Nháve (Hog Island) which have been leased to one Háji Ismáil Hásam under the authority of Government Resolution No. 6544, dated 4th September 1883, and the remainder is composed of small detached numbers or low-lying lands which being encumbered with various rights are unsuited for forest conservancy. His Excellency the Governor in Council approves of the recommendation to disforest these lands, and the requisite notification directing their disforestment should be published in the *Government Gazette*.

3. Mr. Sinclair further proposes that lands measuring $499\frac{29}{40}$ acres which are at present in Protected forests should be converted into Reserved forests. This proposal is approved and the requisite notifications to give effect to it should be published in the *Gazette*.

4. It appears from paragraph 59 of the Forest Settlement Officer's report and paragraph 3 of the Commissioner's remarks that it is proposed to include in forests an additional area of *kuran* land, measuring 86 acres, 16 *gunthás*. This area evidently belongs to Survey No. 65 of Nágaum, but the proposal made in regard to the number in paragraph 49, clause (*c*), of the report is not sufficiently intelligible. The Forest Settlement Officer should accordingly be requested to explain his proposal more clearly, and submit a draft notification under Section 4 if it is proposed to include the number in forests.

5. The Forest Settlement Officer has recorded the existence of certain rights in the lands under report. The Conservator of Forests, S. C., has no objection to offer to these rights, which should be admitted. The enquiry into rights made by the Forest Settlement Officer should be deemed to be sufficient.

6. Extract paragraph 17 of the Forest Settlement Officer's report and paragraph 5 of the memorandum by the Commissioner, S. D., should be communicated to the Marine Department with a request that this Department may be informed whether the Trustees of the Port have any objection to the management of No. 56 being entrusted to the Forest Department on the understanding that the net profits derived from the tree growth on it are paid over annually to the Port Trust.

7. Copy of paragraphs 18—21 of the report should be forwarded to the Public Works Department for consideration of the proposals contained in paragraph 20.

8. Mr. Sinclair merits commendation for his careful report and the judicious manner in which he has performed the duty entrusted to him.

J. MONTEATH,

Under Secretary to Government.

To

The Commissioner, S. D.,
The Collector of Kolába,
The Forest Settlement Officer, Kolába,
The Conservator of Forests, S. C.,
The Public Works Department of the Secretariat (with copy of paragraphs 18—21 of the Forest Settlement Officer's report),
The Marine Department of the Secretariat (with extract paragraph 17 of the Forest Settlement Officer's report and paragraph 5 of the memorandum from the Commissioner, S. D.).

*Forests : Report on the Forest Settlement of the Roha táluka of the Kolába District.*

No. 4214.

REVENUE DEPARTMENT.

Bombay Castle, 4th June 1883.

Memorandum from the Acting Commissioner, N. D., No. 1709, dated 2nd May 1883—Submitting, with his remarks, a letter No. 1253, dated 9th April 1883, from the Conservator of Forests, S. D., who forwards the report of Mr. T. S. Hamilton, Forest Settlement Officer, Kolába, No. 137, dated 3rd March 1883, on the Forest Settlement of the Roha *táluka*, together with the remarks thereon by the District Forest Officer, Ratnágiri-Kolába and the Acting Collector of Kolába.

Memorandum from the Conservator of Forests, S. D., No. 1548, dated 25th April 1883, with accompaniment.

RESOLUTION.—The Roha *táluka* contains Government forests with a total area of 39,153 acres, of which 28,368 acres are Reserved and 10,785 acres Protected forest. The Protected forest area has already been notified under Section 4 of the Act as proposed to be constituted Reserved forest.

2. As in Mángaon and Mahád the area of land in the Roha *táluka* included in Government forests is comparatively small though it is greater in Roha than in the other two *táiukás* and the denudation of the *táluka* by the reckless cutting down of trees and brushwood would fortunately appear not to have made such progress in Roha as it has in Mángaon and Mahád. It is however for many reasons desirable that the extent of land under forest conservancy in the Roha *táluka* should be materially increased, and on the receipt from the Remembrancer of Legal Affairs of Mr. Hamilton's report on the subject with his opinion thereon the Governor in Council will be in a position to decide whether such extension is feasible by including in forests lands situated in *khoti* villages.

3. Mr. Hamilton in his judicial capacity as Forest Settlement Officer has decided that no rights except those of way have been proved in the case of the lands inquired into by him. A formal inquiry in accordance with the provisions of the Indian Forest Act will now have to be instituted in the instance of the lands, formerly Protected forests, which have recently been notified under Section 4 as proposed to be constituted Reserved forests. This inquiry should be conducted with the least practicable delay and the result reported to Government by the Assistant Collector in charge of the *táluka* who should also be appointed to be Forest Settlement Officer of the *táluka*.

4. The Forest Settlement Officer proposes that one-fourth of the Government forest area should be closed at one time. On consideration however of the circumstances of the *táluka* the Governor in Council is of opinion that the proportion of Reserved forest for the time being to be closed at one time should be fixed at one-third. The closed area at any one time would consequently be about 13,000 acres. It will be understood that the exercise of all privileges will be suspended in the area closed for the period of closure which should not be less than five years.

5. The same privileges in the unclosed portions of the Government forests may be allowed in the Roha *táluka* as have been sanctioned for the Pen *táluka*. The lopping of any trees for *ráb* in the Government forests should be strictly forbidden.

6. There would appear to be no necessity for the issue of a general notification of the nature suggested by Mr. Hamilton in paragraph 16 of his report. Any person unauthorizedly trespassing in the closed portion of a Government forest, and injuring or stealing the timber, &c., therein would be liable to punishment under the ordinary provisions of the law without any notification of the character proposed.

7. The one number entered in the appendix to the Forest Settlement Officer's report as proposed for disforestment on the ground that it is occupied assessed land has already been excluded from Reserved forest under Government Notification No. 3208, dated the 24th April 1883.

8. The Forest Settlement Officer considers that it is not necessary to establish any Government wood depôts in the Roha *táluka* in view of the large area of forest land held by private individuals, but suggests that one might be opened as a tentative measure in the town of Roha. If the Collector deems the adoption of this suggestion expedient he can arrange with the Conservator of Forests for the establishment of a wood depôt at Roha as an experiment. Provision should also be made for the supply and sale of materials for *ráb* at the depôt if the Collector considers that the circumstances render such a step advisable.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Kolába,
The Conservator of Forests, S. D.,
The Survey and Settlement Commissioner.

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*Forests : Report on the Forest Settlement of the Mahád táluka of the Kolába District.*

No. 4215.

REVENUE DEPARTMENT.

Bombay Castle, 4th June 1883.

Memorandum from the Acting Commissioner, N. D., No. 1709, dated 2nd May 1883—Submitting with his remarks a letter No. 1253, dated 9th April 1883, from the Conservator of Forests, S. D., who forwards the report of Mr. T. S. Hamilton, Forest Settlement Officer, Kolába, No. 160, dated 17th March 1883, on the Forest Settlement of the Mahád *táluka* of the Kolába District, together with the remarks thereon by the District Forest Officer, Ratnágiri-Kolába and the Acting Collector of Kolába.

RESOLUTION.—The lands notified as Reserved forests in the Mahád *táluka* in the notification No. 3-F., dated March 1st, 1879, comprised an area of 27,964 acres. By the same notification 4,638 acres of land in the same *táluka* were declared to be Protected forests. The total area of lands notified as fosests was consequently 32,602 acres. Considering the extent of the *táluka* and the importance of forest conservancy in the interests both of the State and of the general body of the rayats, the area of forest is unfortunately but small. Serious difficulties however exist in the way of increasing it and although the *táluka* contains 1,40,000 acres of assessed forest and *varkas* land of which only about three-sevenths are cultivated "little more than the actual scarp of the rocks of the Sahyádri range has been included in forest" and as stated by Mr. Hamilton "the densely wooded tracts of rugged country at the foot of the mountains are nearly all private holdings." The result of the private ownership of what once were and now should be the finest forest lands in the *táluka* is that those lands are now almost bare of trees in most parts and that the process of denudation is being rapidly carried to completion.

2. The Collector, the Forest Settlement Officer and the District Forest Officer concur in lamenting the nearly treeless condition of the *táluka* and it is pointed out that owing to the indiscriminate cutting down alike of trees, bushes and brushwood the comparatively few trees remaining are stunted, distorted and of small value and the hill sides are being speedily converted everywhere into barren masses of rock. Certain proposals have been made by the Forest Settlement Officer on the subject of the conversion into forest of some of the forest lands in *khoti* villages. Those proposals have been referred for opinion to the Remembrancer of Legal Affairs and on the receipt of his report the orders of Government will be passed thereon.

3. The Forest Settlement Officer proposes the exclusion from the notified area of 664 acres of Reserved forest and 937 acres of Protected forest, leaving an area to be maintained as forest of about 31,000 acres. The Protected forest numbers of which the disforestment is proposed on the ground either that they are occupied or that they are of little value for forest conservancy purposes are mentioned in appendices 1 and 2 to Mr. Hamilton's report. A notification directing their exclusion from Protected forests should at once be issued. As regards the Reserved forest numbers recommended for disforestment entered in appendix 3 to the report a reference to the Survey Department for further examination is suggested. Government however cannot perceive that any advantage is to be derived from such a reference seeing that Mr. Hamilton states that he is "as certain as it is possible to be under the circumstances" that those numbers are occupied assessed numbers. Of the lands entered in this appendix some have already been disforested under Government Notification No. 3035, dated the 18th April 1883. The sanction of the Government of India to the exclusion of the remainder from Reserved forests should now be applied for.

4. In appendix 4 to his report the Forest Settlement Officer recommends the notification as proposed Reserved forests under Section 4 of eight numbers in eight villages. The suggested notification has however already been issued in respect of six of these numbers and it is only now necessary to notify as proposed to be constituted Reserved forests survey numbers 1 of Mátvan and 24 of Kátivde. The Assistant Collector in charge of the *táluka* should be appointed Forest Settlement Officer of the *táluka* now that Mr. Hamilton has proceeded to Europe on furlough and the requisite inquiries under the Act in respect of these eight numbers should be effected as speedily as possible.

5. The comparatively small area of Government forests in the Mahád *táluka* and the lamentable destruction of forests which has occurred on occupied lands forming the great bulk of the forest area of the *táluka* render the strict and careful conservancy of the Government forests all the more essential. The Forest Settlement Officer proposes that one-half of the total forest area should be closed at a time for a term of years. In view of the circumstances of the case this proposal is approved, and 15,000 acres of forest may be absolutely closed at a time. The period for which the blocks should be closed in rotation should be fixed by the Conservator of Forests in consultation with the Collector but it certainly should

not be less than five years. Care however must be taken that the inhabitants of forest villages are not subjected to serious hardship by the adoption of this measure, as would be the case were the entire Government forest area of two or more adjacent forest villages closed at the same time. As a rule the entire forest area of no forest villages should be closed at the same time. The Collector should see that the orders now issued are carried out with discretion and that the advantages to themselves eventually of the course now directed to be pursued are carefully pointed out to the Kolis and Thákurs, who will be the persons mainly affected.

6. The Forest Settlement Officer has found that save in one village (Mátvan) where the forest rights are shared by Government and the *khoti-inámdár*, no rights beyond certain rights of way exist. As regards privileges the same privileges may in respect of the unclosed portions of the Government forests be allowed as have been sanctioned in the Alibág and Pen *tálukás*. The exercise of all privileges should be absolutely suspended in the closed portions of the Government forests. The Governor in Council is glad to notice that the injudicious order issued by Mr. Blathwayt when Collector of Kolába in 1880 permitting the lopping of teak trees for *ráb* has been cancelled. Under no circumstances should the lopping for *ráb* of any trees in the Government Reserved forests be allowed.

7. Copy of paragraphs 13, 15 and 17 of Mr. Hamilton's report, and of paragraph 8 of the memorandum of the Commissioner, N. D., should be forwarded to the Survey and Settlement Commissioner with a request that very early steps may be taken to correct up to date the village registers and maps still uncorrected. The suggestions made by Mr. Hamilton in paragraph 17 of his report seem judicious.

8. With regard to the observations in paragraph 16 of the report of the Forest Settlement Officer it is sufficient to observe that the decisions of the Forest Settlement Officer are open to appeal to the Collector and that any persons who claim as their own any land included in forests can represent their case to the Collector.

9. Government concur with the Collector in considering that Mr. Hamilton has discharged with zeal and ability his duties as Forest Settlement Officer and has carried out in a very satisfactory manner the task entrusted to him.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Kolába,
The Conservator of Forests, S. D.,
The Survey and Settlement Commissioner (with extract paragraphs 13, 15 and 17 of Mr. Hamilton's report No. 160, dated 17th March 1883, and of paragraph 8 of the memorandum of the Commissioner, N. D., No. 1709, dated 2nd May 1883);
The Government of India (by letter).

*Forests: Report on the Forest Settlement of the Mángaon Táluka of the Kolába District.*

No. 4217.

REVENUE DEPARTMENT.

Bombay Castle, 4th June 1883.

Memorandum from the Acting Commissioner, N. D., No. 1709, dated 2nd May 1883—Submitting with his remarks a letter No. 1253, dated 9th April 1883, from the Conservator of Forests, S. D., who forwards the report of Mr. T. S. Hamilton, Forest Settlement Officer, Kolába, No. 150, dated 14th March 1883, on the Forest Settlement of the Mángaon *táluka*, together with the remarks thereon by the District Forest Officer, Ratnágiri-Kolába and the Acting Collector of Kolába.

RESOLUTION.—In the Mángaon as in the Mahád *táluka* the amount of Government forest land is very small, the bulk of the land either bearing or capable of bearing forest is in private occupation, and the reckless destruction of the jungle has left the country almost treeless.

2. The bulk of the forest land of the Mángaon *táluka* is situated in *khoti* villages. It may possibly be found feasible to provide for the conservation for forest purposes of a portion at least of this land, but pending the receipt of the report of the Remembrancer of Legal Affairs on the proposals regarding forests in *khoti* villages submitted by Mr. Hamilton the Governor in Council will defer the issue of any orders on the subject. It is clear, however, from Mr. Hamilton's present report (paragraphs 3 and 4) that under the system in accordance with which yearly leases are now granted to *khots* undeserved payments on account of the produce of forest cuttings are not unfrequently made to the *khots*.

3. The Forest Settlement Officer in his judicial capacity has found that no rights except some of way have been proved in respect of the Government forests and has decided that "the *khots* can only claim the share of forest produce promised to them in their survey leases if they carry out the duties of forest conservation undertaken by them," and also that in attached *khoti* villages "no share is payable to the *khots* as their services are not during attachment enlisted by Government." He anticipates that his decisions as regards the *khots* will be challenged in the Civil Courts. It may however be observed that if the *khots* are dissatisfied with the decisions of the Forest Settlement Officer an appeal from those decisions lies to the Collector whose order under Section 17 of the Indian Forest Act is final, subject to revision by Government.

4. The area of the lands notified as Reserved and Protected forests in the Mángaon *táluka* in March 1879 was respectively 17,068 and 19,298 acres, or 36,366 acres in all. Of the Protected forest area thus notified 2,916 acres have already been disforested or are now proposed for disforestment, whilst of the Reserved forest area 362 acres have now to be disforested as being occupied assessed lands and therefore wrongly notified in the first instance. The total remaining forest area accordingly is 33,087 acres of which 16,382 acres are now Protected forest but have already been notified under Section 4 of the Act as proposed to be constituted Reserved forests.

5. In Appendix 3 to his report the Forest Settlement Officer has entered the lands now entered as Reserved forest of which the exclusion is proposed on the ground that they are occupied assessed lands. The lands in the Nánaoli and Umbardi villages entered in this list have already been disforested and the Government of India should now be moved to sanction the exclusion from Reserved forests of the other survey numbers mentioned in the list.

6. In the Appendices 1 and 2 to his report Mr. Hamilton has inserted the Protected forest numbers of which he suggests the disforestment. Some however of these numbers have already been disforested, whilst the remainder have been notified as proposed for conversion into Reserved forests. The numbers however thus notified under Section 4 of the Act should be disforested and so much of Government Notification No. 1279, dated February 16th last, as relates to them should be cancelled.

7. The Forest Settlement Officer proposes that the area of forests to be closed at one time should be fixed at one-fourth of the total area. In view however of the smallness of this area, of the large extent of *varkas* land in the possession of the villagers, and of the destruction of the jungle which has taken place in *táluka* this it seems to the Governor in Council desirable that the forest area to be closed at a time should be somewhat larger than that suggested by the Forest Settlement Officer. He is therefore pleased to direct that the proportion of the Reserved forest area for the time being to be closed at one time should be fixed at one-third, care being taken when selecting the areas to be temporarily closed that the least possible inconvenience should be caused to the inhabitants of forest villages. The lands closed should be absolutely closed for a period of not less than five years and during their closure the exercise of any privileges in them should be absolutely suspended.

8. As regards the privileges to be allowed in the unclosed portions of the Government forests the same privileges may be conceded as have been permitted in the case of the Pen *táluka*. The lopping of any trees for *ráb* purposes in the Government forests should be strictly prohibited.

9. The Forest Settlement Officer recommends that certain unassessed waste lands specified in Appendix 4 to his report should now be notified under Section 4 of the Act as proposed to be constitued Reserved forests. Of the six numbers mentioned two have already been notified under Section 4. The requisite notification concerning the remaining four numbers should now be issued.

10. The Assistant Collector in charge of the *táluka* should be appointed Forest Settlement Officer of the *táluka* and directed to complete without delay the necessary inquiry under the Act regarding the numbers which have been or now are to be notified under Section 4.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Kolába,
The Conservator of Forests, S. D.,
The Survey and Settlement Commissioner,
The Government of India (by letter).

*Forests: Report on the Forest Demarcation and Settlement of the Sálsette táluka in the Thána District.*

No. 2988.

REVENUE DEPARTMENT.

Bombay Castle, 9th April 1884.

Memorandum from the Commissioner, N. D., No. 1072, dated 26th March 1884—Forwarding one from the Acting Collector of Thána, together with a report No. 9, dated 23rd January 1884, from Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the demarcation and settlement of the forests in the Sálsette *táluka*; appending reviews of the report by the District Forest Officer, North Thána, and the Conservator of Forests, N. D.; and making remarks.

RESOLUTION.—Mr Lawrence is entitled to credit for the clear, succinct, and intelligent report which he has submitted on the forest demarcation and settlement of the Sálsette *táluka*.

2. The total area of the *táluka* is 1,38,320 acres, of which 95,510 acres are in Government, and the remainder in alienated, villages. In the Government villages there are 57,715 acres of waste land, but of this area 5,824 acres are salt marsh useless for forest purposes.

3. There now are, and it is proposed to retain, in the *táluka* both classes of forests Reserved and Protected. The area of land notified as Reserved forest in March 1879 was 13,096$\frac{9}{20}$ acres, but of this 3,458$\frac{9}{40}$ acres were disforested by Government Notification No. 9, dated January 3rd, 1882, leaving a balance in forest of 9,638$\frac{9}{40}$ acres. This area of old Reserved forest Mr. Lawrence proposes to still further diminish by the exclusion of 32$\frac{3}{40}$ acres. At the same time he recommends that 4,407$\frac{17}{20}$ acres of land now included in Protected forest should be converted into Reserved forest, that 652$\frac{3}{40}$ acres of land now waste should be included in Reserved forest, that 13$\frac{3}{20}$ acres of land which have already been obtained from their holders should also be made Reserved forest, and that 63$\frac{3}{5}$ acres of lands now occupied should be acquired hereafter for Reserved forest as opportunity offers. The ultimate result of these proposals would be to raise the Reserved forest area to about 14,742$\frac{3}{5}$ acres, or nearly 15$\frac{1}{2}$ per cent. of the area of the Government land in the *táluka*.

4. In March 1879 22,622$\frac{3}{5}$ acres were notified as Protected forest, but the area of land in this class of forests is now only 10,567$\frac{1}{5}$ acres, as by Notification No. 7400, dated December 7th, 1881, 12,055$\frac{3}{10}$ acres of the land declared Protected forest in March 1879 were disforested. The Forest Settlement Officer now recommends that of the balance left 4,407$\frac{17}{20}$ acres should be made Reserved forest, and 3,320 acres should be disforested, and that 709$\frac{1}{2}$ acres of land lying waste should be constituted Protected forest. The Protected forest area would consequently be according to Mr. Lawrence's scheme 3,549 acres.

5. The proposals of the Forest Settlement Officer, in respect both of Reserved and of Protected forests, meet with the approval generally of the Commissioner, N. D., the Collector, the Conservator of Forests and the District Forest Officer. Mr. Shuttleworth offers no objection to the disforestment of the Reserved forest numbers as entered in Appendix F. to Mr. Lawrence's report with the exception of Survey No. 115 of Gundgaon which he considers should be retained in forest. The Conservator shows good cause why this small number should not be disforested. The Government of India should be moved to sanction the exclusion from Reserved forest of the other lands enumerated in Appendix F.

6. It is not necessary to notify under Section 19 of the Act the lands which are entered in Appendix A. to the report and have been already notified under Section 34. No notification under the former section is requisite in the case of lands which have been formally declared to be Reserved forests under Section 34.

7. The 652$\frac{3}{40}$ acres of waste land and the 13$\frac{3}{20}$ acres of land which has been acquired from its occupants by purchase or exchange, as entered in Appendix C. to the report, should now be notified under Section 4 of the Indian Forest Act as proposed to be constituted Reserved forest. A similar notification should be issued in respect of the 4,407$\frac{17}{20}$ acres of land which are now in Protected forest but which the Forest Settlement Officer recommends should be converted into Reserved forest, as specified in Appendix B. to the report. Survey Nos. 136 of Ghátkopar, 85 and 138 of Trombay, 137 of Mán Khurd, 64 of Mán Budrukh, 34 and 79 of Mándále and 54 of Klairábád should also as advised by the Conservator of Forests be notified under Section 4. Government approve of Mr. Shuttleworth's suggestions concerning the conversion into Reserved forest of portions of Survey Nos. 154 and 155 of Náhur. The latter number is presumably waste as the Conservator recommends that part of it should

be notified under Section 4, and it does not appear to have been ever notified as either Reserved or Protected forest. The Forest Settlement Officer should be requested to submit the necessary notification in respect of these two numbers.

8. In Appendix H. are entered the lands which are now occupied but should in the opinion of Mr. Lawrence be ultimately obtained for Reserved forest by purchase or exchange. Although the plots of land enumerated in this statement are many they are with few exceptions very small and their aggregate area is only 63⅗ acres. The Conservator of Forests recommends that in addition to these lands Survey Nos. 146 and 147 of Náhur and all the lands in the villages of Sái, Gundgaon and Klairábád which form part of the catchment area of the Vehár Lake should eventually be acquired by money payment or in exchange for other lands. Government approve of the proposed acquisition of the lands mentioned by Messrs. Lawrence and Shuttleworth as occasion offers by exchange or purchase, provided possession of them can be gained on reasonable and moderate terms. In the case of the lands already bought as given in Appendix J. the rates paid have been very high averaging over Rs. 60 per acre and unless the land purchased is of great value and essentially needed for forest conservancy it seems questionable whether it is expedient to buy it at so comparatively heavy a cost.

9. As regards Protected forests the Governor in Council concurs with the Conservator of Forests in considering it undesirable in the circumstances stated to retain any lands in forests of this class in the four villages of Utan, Dongari, Gorái and Manori which lie to the West of the Manori Creek. All the Protected forest land in these four villages, which would seem to be useless for any forest purpose, should accordingly be disforested. In other respects the proposals of the Forest Settlement Officer concerning Protected forests are sanctioned subject to the modifications directed in paragraph 7, and the requisite notifications should now be issued disforesting both the Protected forest lands which are to be constituted Reserved forests and those which are to be abandoned altogether for forest purposes, and declaring certain lands to be Protected forests under Section 28.

10. Government will await the explanation of the Forest Settlement Officer regarding the discrepancies pointed out by the Conservator of Forests in paragraph 9 of his report.

11. In Appendix K. the Forest Settlement Officer supplies a list of the right admitted by him either as claimed under Section 6 of the Act or as ascertained to exist under Section 7. The rights allowed are chiefly of way, but in four instances rights of grazing have been granted. As however has been repeatedly ruled by Government grazing is a privilege and not a right, and the Conservator of Forests has properly appealed against the decisions of the Forest Settlement Officer in which alleged rights of grazing have been granted. The result of the appeals prefered should be reported to Government. The Conservator complains, and with reason, that no intimation of the awards of the Forest Settlement Officer was communicated to him until he received the forest settlement and demarcation report from the Commissioner, N. D., and that therefore he was unable until then to take any measures to move for the reconsideration or reversal of those awards. In future as recommended by the Conservator "a copy of every award of a right against the forests, save of a right of way in respect of any forest lands, which may be made by a Forest Settlement Officer should be forwarded through the District Forest Officer to the Conservator of Forests by the Forest Settlement Officer immediately upon the award being made." In the case of Yeur Government understand the meaning of the Forest Settlement Officer to be that certain Thákurs had a right to inhabit a hamlet situated within a Reserved forest number, but that the Thákurs have now been removed and compensation paid to them and that consequently the right no longer exists.

12. As regards grazing the same privileges as have been allowed in the Panvel *táluka* may be permitted in the Sálsette *táluka*. Government agree with the Commissioner and the Forest Settlement Officer in thinking that the present arrangement under which the inhabitants of Thána, Chendani and Páchpákhádi are treated as inhabitants of one and the same town or village should not be interfered with, and that in this respect the existing system should remain unaltered. Grazing should only be allowed in the unclosed portions of the forests, and cannot be permitted between May 15th and September 15th.

13. In respect of collecting dead-wood, cutting thorns, and taking minor forest products the privileges allowed in Sálsette should be those already sanctioned for Panvel, with the exception that the special additional privileges admitted to the wild tribes in the latter *táluka* need not be given in Sálsette where the Forest Settlement Officer considers them to be unnecessary.

14. The orders passed regarding *ráb* privileges in the Panvel *táluka* should be held to be applicable to Sálsette. There is no objection to the cutting for *ráb* of the shrubs named by Mr. Lawrence—the *hátrun, kudeh* and *mastode*—in addition to the other ten specified varieties.

15. The proportion of the Reserved forest area to be absolutely closed at any one time may be fixed at one-half in the case of the Klairábád and Yeur forests, two-fifths in the case

of the Ghodbandar forests, and one-third elsewhere, except in the case of the reserved *bábhul* forests in Kándivli, Boriwli, and Shimpavli where the jungle is so dense that grazing is apparently impossible and where consequently there may be total closure.

16. The Governor in Council does not consider it desirable to demarcate land for forests in the village of Borivde as it was the intention of Government to admit the grantee's rights as stated by the Legal Remembrancer.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána and all other Collectors in the Presidency proper with the exception of the Collectors of Broach, Kaira and Ahmedabad (with a request that copies of the Resolution may be communicated to the Forest Settlement Officers in their respective districts) and the Forest Settlement Officer, Sind, } With reference to paragraph 11 of the Resolution,
Mr. E. Lawrence, Forest Settlement and Demarcation Officer, Thána (with the map),
The District Forest Officer, Thána,
The Conservator of Forests, N. D.,
The Accountant General,
The Survey and Settlement Commissioner,
The Government of India (by letter).

*Forests: Supplementary report on the forest settlement of the Sálsette Táluka of the Thána District.*

No. 2831.

REVENUE DEPARTMENT.

Bombay Castle, 8th April 1885.

Memorandum from the Commissioner, N. D., No. 966, dated 24th March 1885—Submitting a letter No. 7006, dated 19th idem, from the Conservator of Forests, N. C., who forwards a supplementary report No. 25, dated 6th February 1885, by Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the forest settlement of the Sálsette *táluka* in the Thána District, together with remarks thereon by the Collector of Thána and the Divisional Forest Officer, North Thána.

RESOLUTION.—Mr. Lawrence reports the forest settlement effected by him in respect of the lands measuring 5,429 acres 16¾ *gunthás* in the Sálsette *táluka* of the Thána District which were declared proposed Reserved forests under Section 4 of the Indian Forest Act, 1878, in Government Notifications Nos. 2988A., dated 9th April, and 4033, dated 20th May 1884. Of the lands thus notified it is proposed to exclude from forests only a portion of Survey No. 138 of Trombay, measuring 14 acres, which consists of detached plots lying in the midst of rice-fields. The necessary notification under Section 19 of the Act in respect of the remaining lands should be published in the *Bombay Government Gazette.*

2. It appears on a comparison of the draft notification under Section 19 submitted by the Forest Settlement Officer with the previous notifications that Survey No. 85 of Adavli Bhutali published in Government Notification No. 2988A., dated 9th April 1884, has not been included in the draft notification. This omission should be explained. It is also noticed that whereas the area of Survey No. 324 of Turambhe was stated to be 18$\frac{32}{40}$ acres in the draft notification under Section 4 which accompanied Mr. Lawrence's previous report on the forest settlement of the *táluka* it has been erroneously printed in Government Notification No. 2988A, dated 9th April 1884, and is entered in the draft notification under Section 19 now submitted as 1$\frac{32}{40}$ acres. An *erratum* should be published in the Gazette correcting the error, and the Forest Settlement Officer should be requested to state what is the correct area which should now be notified under Section 19.

3. The Conservator of Forests, N. C., proposes that in the case of certain survey numbers, of which parts only have been included in the area of Reserved forests, the portions lying outside that area should be numbered afresh by the Survey Department. This suggestion is approved and the Survey Commissioner should be requested to take the necessary measures to give effect to it.

4. Since the submission of his former report the Forest Settlement Officer has acquired by purchase for forest purposes five *málki* survey numbers measuring 3 acres 30¼ *gunthás.* These should be notified under Section 4 along with the two assessed waste numbers, 48 of Borivli *tarf* Khairne and 250 of Ghansoli proposed to be included in forests. As remarked by the Conservator the amount of compensation paid for the occupied numbers taken up for forests is very large, being more than thirty times the assessment; but the Governor in Council presumes that the Forest Settlement Officer satisfied himself that the value for forest purposes of the lands thus obtained was such as to warrant the high price paid. It is however desirable that the Forest Settlement Officer should consult the Forest Department before completing the purchase for forests of occupied lands when the sum to be given is *primâ facie* so disproportionate to their area.

5. The draft notification submitted by the Forest Settlement Officer excluding certain lands in the villages of Utan, Dongri and Gorái from Protected forests should be published in the *Bombay Government Gazette.*

6. In his judicial capacity the Forest Settlement Officer has found the existence of certain rights in the land settled by him. These are mostly rights of way and of access to water and certain places of worship. In some numbers in the villages of Ghodbandar, Káshi, Mira and Trombay, the Forest Settlement Officer has also ascertained that certain holders possess the right to appropriate the fruit of the mango and other trees growing thereon by virtue of agreements made by them with Government. The rights thus declared to exist should be admitted. In the case of Survey No. 136 of Ghátkopar the Forest Settlement Officer has decided that the *khot* of that village is entitled to enjoy certain specified rights in that survey number. Against this decision the Conservator has been permitted by Government to perfer an appeal to the Collector, and the result of the appeal will be awaited.

7. The Forest Settlement Officer raises the question whether the enjoyment of the privileges conceded in Government Resolution No. 2988, dated 9th April 1884, should be restricted only to the actual residents of villages in which forests are situated or should be extended also to persons who though not actually residing in those villages own lands therein. As regards *ráb* and grazing he recommends that the privileges should be

enjoyed by both classes of persons equally, and all the officers whose opinions have been recorded concur in the recommendation, which is accordingly sanctioned. The only restriction which need be imposed is that this privilege should be limited to cattle used for agricultural and domestic purposes, the property of persons who are not professional cattle-dealers. Goats should not be admitted into the Government forests. As regards *ráb* a non-resident holder of land in a forest village may subject to the prescribed limitations take from the forest lands of the village materials for *ráb* for his land situated in the village, but not for any land he may hold in any other village.

8. As regards firewood the Forest Settlement Officer is of opinion that the privilege of collecting dead-wood for fuel in the forest lands should be enjoyed only by persons residing in a forest village, and in this view the Conservator concurs, remarking that "if once the removal of free firewood outside a forest village is permitted there will be no controlling its export by dealers to the Bombay and other markets." The Commissioner on the other hand urges that "the abuse of privilege apprehended by the Conservator can be prevented by requiring that permission should be obtained for the removal of firewood to the village where the landholder resides." The Governor in Council is however of opinion that the adoption of the course recommended by the Commissioner will not prove a sufficient safeguard against abuse and concurs with the Forest Settlement Officer and the Conservator in holding that the exercise of the privilege should be restricted to residents of the villages.

9. The Forest Settlement Officer points out that the order passed in paragraph 12 of Government Resolution No. 2988, dated 9th April 1884, that grazing should not be permitted in the forests between 15th May and 15th September is impracticable in a *táluka* situated as Sálsette is, and will if carried into effect operate harshly on the people; and he proposes that grazing should be permitted int he unclosed portions of the Reserved forests all the year round. As the Conservator of Forests and the Divisional Forest Officer see no objection to the adoption of this proposal, it is sanctioned.

10. As regards Trombay the Forest Settlement Officer proposes that not more than one-fourth of the forest block in that village should be closed to grazing at a time. The Conservator of Forests on the other hand considers that as the soil around is for the most part poor it would be better to allow the Forest Department to enclose the whole block in order to form a plantation of considerable size. The adoption of this course however is not desirable in view of the fact stated by the Forest Settlement Officer that the area of grazing land in the village is small. Mr. Lawrence's proposal should accordingly be adopted.

11. The Governor in Council sees no ground for extending to Sálsette, as recommended by the Commissioner, the same concessions in respect of *ráb* as were sanctioned for the Bhivandi *táluka* in Government Resolution No. 5251, dated 1st July 1884. The circumstances under which those concessions were sanctioned for Bhivandi were special and do not exist in the case of Sálsette.

12. In accordance with paragraph 4 of Government Resolution No. 8977, dated 14th November 1884, the Forest Settlement Officer has submitted a draft notification under Section 29 (*a*) of the Forest Act declaring all *mowra* trees in the Protected forests in the Sálsette *táluka* to be reserved. This draft should be returned to the Forest Settlement Officer with a request that he will be good enough to submit a revised draft mentioning in it by their number and dates the Government notifications by which the lands in which it is proposed to reserve the *mowra* tree were declared Protected forests.

J. MONTEATH,
Under Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Forest Settlement Officer, Thána (with the draft notification under Section 29 (*a*)),
The Conservator of Forests, N. C.,
The Survey and Settlement Commissioner.

*Forests: Report on the Forest Settlement and Demarcation of the Bhivandi táluka of the Thána District.*

No. 5251.

REVENUE DEPARTMENT.

Bombay Castle, 1st July 1884.

Memorandum from the Commissioner, N. D., No. 2087, dated 14th June 1884—Forwarding, with his remarks, a letter No. 2441, dated 7th May 1884, from the Acting Collector of Thána, together with a report No. 65, dated 3rd idem, by Mr. Lawrence, Forest Settlement and Demarcation Officer in the Thána District, on the demarcation and settlement of the forests of the Bhivandi *táluka* and appending reviews of the report by the Divisional Forest Officer, South Thána, and the Conservator of Forests, N. C.

RESOLUTION.—The forest demarcation and settlement of the Bhivandi *táluka* have been effected with much care and judgment by Mr. Lawrence, the Forest Settlement Officer, and the Governor in Council is glad to notice that Mr. Lawrence's proposals are not only warmly supported by the Collector and Commissioner but also meet in the main with the concurrence of the Divisional Forest Officer and the Conservator of Forests.

2. The Bhivandi *táluka* comprises 194 Government villages and has a population of 75,363 and an area of 159,813 acres. The area notified as forest on March 1st, 1879, amounted to 41,246$\frac{17}{20}$ acres, of which 27,533$\frac{3}{10}$ acres were declared to be Protected forest and 13,713$\frac{11}{20}$ acres were declared Reserved forest under Section 34 of the Indian Forest Act. By the Notification No. 5625, dated July 30th, 1883, 18,207$\frac{1}{4}$ acres were declared under Section 4 of the Act to be proposed to be constituted Reserved forest. The total area therefore notified under Sections 4 and 34 has been 59,454$\frac{1}{10}$ acres.

3. To deal first with the Reserved forest and Mr. Lawrence's recommendations concerning this class of forest, it appears that the area of the lands notified either as Reserved forest or as proposed to be constituted such is 31,920$\frac{4}{5}$ acres. Of this 30$\frac{33}{40}$ acres have already been disforested under Notification No. 9, dated January 3rd, 1882, and the Forest Settlement Officer now proposes to exclude from forest a further area of 1,051$\frac{1}{5}$ acres, of which however 892$\frac{1}{5}$ acres have only been notified under Section 4, and to convert into Protected forest 497$\frac{11}{40}$ acres leaving as Reserved forest a balance of 30,340$\frac{9}{10}$ acres of the lands already notified under Section 4 or Section 34. At the same time he recommends that of the lands now classed as Protected forest 8,466$\frac{1}{4}$ acres should be converted into Reserved forest, that 367 acres of unassessed waste land and 204$\frac{1}{5}$ acres of assessed waste land should be at once notified under Section 4, that 10 acres of occupied land which have already been secured for forest should be notified under the same Section, and that 135$\frac{19}{20}$ acres of land now occupied should be acquired for Reserved forest. The net result of his proposals is to raise to 39,524$\frac{11}{40}$ acres the area of the Reserved forest in the *táluka*.

4. The area of the lands already notified under Section 34 as Protected forest is 27,533$\frac{3}{10}$ acres. Of this 38$\frac{1}{4}$ acres have been disforested, and as above stated 8,466$\frac{1}{4}$ acres are now proposed to be made Reserved forest. Mr. Lawrence proposes to further reduce the Protected forest area by disforesting 11,716$\frac{4}{5}$ acres of land at present included in that description of forest. On the other hand he would add to the Protected forest area 1$\frac{29}{40}$ acres which he has already acquired for the purpose from the occupants, 631$\frac{4}{5}$ acres of unassessed waste land, 269$\frac{7}{8}$ acres of assessed waste land, 110$\frac{1}{2}$ acres of lands now occupied but to be obtained hereafter as opportunity offers, and, as previously noted, 497$\frac{11}{40}$ acres of land now entered as Reserved forest. By the adoption of these proposals the area of Protected forest would on the whole be reduced to 8,823$\frac{3}{20}$ acres.

5. According to the scheme of the Forest Settlement Officer the total aggregate forest area of the *táluka* would consequently be 48,347$\frac{17}{40}$ acres, or about 30 per cent. of the entire acreage of the sub-division. In view of all the circumstances this proportion would appear to be ample. The area which has already been notified under Section 4 or Section 34 which it is now proposed to abandon—12,768$\frac{3}{5}$ acres—is undoubtedly very considerable, but Mr. Lawrence has given satisfactory reasons for his suggestions which are approved by both the Land Revenue and the Forest Department officers concerned. The lands to be disforested are either isolated patches, or unsuitable for the growth of trees, or urgently needed for the purposes of cultivation, or such as could not be conserved without inconvenience to the villagers and the Forest Department. The Forest Settlement Officer has also shown sufficient cause for the Proposed conversion into Protected forest of 497$\frac{11}{40}$ acres of Reserved forest which cannot with advantage be strictly preserved. The Governor in Council therefore is pleased to sanction the demarcation proposals as regards both Reserved and Protected forests submitted by Mr. Lawrence, and the necessary steps to give effect to them should be taken.

6. The Government of India should be moved to authorise under Section 26 of the Act the exclusion from Reserved forest of the 497$\frac{11}{40}$ acres to be converted into Protected forests and of the 159$\frac{3}{5}$ acres which having been notified under Section 34 have now to be

absolutely disforested. On the receipt of their sanction the 497$\frac{11}{40}$ acres abovementioned should first be formally disforested and then notified as Protected forest. A notification should now be issued disforesting the 11,716$\frac{4}{5}$ acres of Protected forest which are to be excluded from forest, and the 8,466$\frac{1}{4}$ acres of the same class of forest which are now to be made Reserved forest. After the issue of this notification the latter 8,466$\frac{1}{4}$ acres should be notified under Section 4. The 581$\frac{1}{5}$ acres referred to in paragraph 3 which Mr. Lawrence recommends for inclusion in Reserved forest should be notified under Section 4, and the 903$\frac{2}{5}$ acres mentioned in paragraph 4 as proposed for immediate addition to Protected forest should be notified as such without delay, as the requisite inquiry regarding them has apparently been made by the Forest Settlement Officer. The only further notification to be now at once issued is that regarding the lands which having been already notified under Section 4 as proposed to be declared Reserved forest have now to be formally constituted such under Section 19. The notification under this Section submitted by Mr. Lawrence requires amendment as in it are entered many numbers which have been previously notified under Section 34 and do not require therefore now to be notified under Section 19 and several other numbers which cannot be notified at present under Section 19 as they have not yet been notified under Section 4.

7. The Conservator of Forests seems inclined to doubt the expediency of placing in Reserved forest so large an area of what is now Protected forest, but it must be remembered that a still larger area of what is now Protected forest is to be altogether disforested and will be available for *ráb* purposes or cultivation, and that the recommendation is made by an officer of special knowledge and experience who is personally acquainted with the *táluka* and has given full consideration to the requirements as well of the cultivating classes as of the Forest Department. On this point the Collector remarks that if the privileges recommended by Mr. Lawrence are granted and fairly worked by the Forest Department the amount of land proposed for forests "is not too great and cultivation will rather benefit than lose." The Divisional Forest Officer whilst generally supporting Mr. Lawrence's suggestions thinks that in one instance land proposed to be disforested should be retained in forest and even added to, but the Conservator of Forests differs from him on this point and the Governor in Council sees no reason to modify Mr. Lawrence's proposals in this matter. The acquisition for forest of cultivated rice lands is undesirable except where very special reasons in favour of the adoption of such a measure exist.

8. The quantity of occupied land proposed to be acquired is but small amounting in all to only about 246 acres. But limited progress has been made in the direction of obtaining these lands as the negotiations with the holders are often difficult and Mr. Lawrence has judiciously endeavoured to secure most of the lands needed by exchange instead of by purchase. The Governor in Council however trusts that Mr. Lawrence on his return from leave will be able without much further delay to secure at least those occupied lands which are urgently required.

9. The teak on the lands to be disforested will remain in the charge of the Forest Department, and in the event of any of those lands being given out for cultivation the teak trees standing on them should not be sold to the persons taking the land. The common jungle trees on any of these lands taken up for cultivation may be sold to the occupants, and the sale proceeds credited as suggested by the Commissioner to the Forest Department. In common lands the trees should not be felled, as to allow them to be cut might prejudicially affect the available supply of materials for *ráb*.

10. The proposals as regards the closure of a fixed proportion in rotation of the area of the Reserved forest blocks, as stated in paragraph 41 of Mr. Lawrence's report, are sanctioned. In the case of Protected forest blocks the proportion of the area of each block to be absolutely closed in rotation may be fixed at not more than one-fifth and not less than one-tenth, the exact fraction being determined by the Collector and Divisional Forest Officer in consultation. It will be for the Forest Officers to decide in each instance the period for which the compartment should be absolutely closed.

11. The Forest Settlement Officer has made a full and detailed inquiry into all claims to rights advanced, and his decisions on this subject should be accepted. The point as to the rights or privileges granted at the survey settlement is not likely to have escaped the attention of so careful an officer as Mr. Lawrence. With only one or two exceptions the rights admitted were merely of way.

12. In respect of privileges in Reserved forests identically the same privileges may be accorded in the Bhivandi as have been sanctioned in the Panvel *táluka*, in the matter of grazing, taking of grass, materials for *ráb*, wild fruits, firewood and minor forest products. No lopping of trees for *ráb* in the Reserved forest area can be permitted, and *hirdas*, *mowra* and *shikekái* should be reserved to Government, but as recommended by Mr. Lawrence the villagers may take free of charge mangoes growing in either the Reserved or the Protected forests. The villagers of forest villages may be permitted as in Panvel to collect leaves in both classes of forests, the only restrictions imposed on this privilege being that live teak leaves are not to be plucked from the trees, and that as directed in the case of Panvel the leaves of *ápta*, *tembhurni* and *palas* trees should be reserved to Government. For the reasons mentioned in paragraph 10 of Government Resolution No. 7579, dated October 10th, 1883,

the Governor in Council is not prepared to assent to the Commissioner's recommendation regarding the leaves of the three varieties of trees last named.

13. As regards the inhabitants of non-forest villages the orders passed with reference to the Panvel *táluka* in paragraphs 11, 12 and 14 of the Resolution above referred to should be held to be applicable to the Bhivandi *táluka*. Such villagers may be permitted to graze their cattle in the unclosed portions of the Government forests on payment of fees according to a moderate scale. The Collector and the Conservator of Forests should after consultation report whether they would recommend for adoption the Mahábaleshvar scale of fees which is now in force in the Panvel and Alibág *tálukás* or a somewhat lower scale.

14. Thákurs, Kátkaris and Várlis whether resident in forest or in non-forest villages may be granted the same privileges in Bhivandi as have been given to them in Panvel, and with a similar warning.

15. The Governor in Council is not inclined to permit the villagers to cut and remove free of charge and in such quantities and at such times as they desire thorns and *kárvi* from either the Reserved or the Protected forests. In Bhivandi the imposition of a fee on the removal of such products may not be necessary, but for the protection of the forests it is clearly requisite that the cutting of such shrubs should be regulated and should not be allowed to be indiscriminately made. Thorns and *kárvi* should therefore only be permitted to be cut and removed on passes granted by the local Forest Officers, but these passes should be given with liberality and without undue delay when application is made for them and no really serious objection exists.

16. With a view to prevent the manufacture of dead-wood and the consequent destruction of valuable timber the course recommended by the Conservator of Forests in paragraph 9 of his letter of the 10th instant may be adopted and the splitting up by the villagers of logs of teak, blackwood and *tivas* before the removal of the wood from the forests should be prohibited. The necessity for the imposition of this restriction in the case of the 9 other varieties of trees mentioned by the Divisional Forest Officer has not been established, but in the event of its being satisfactorily proved that the course suggested by Mr. Wilkins is essential in the interests of forest conservancy the Governor in Council will not object to the adoption of the measure on such proof being furnished to Government.

17. Except in respect of *ráb* the privileges to be allowed in Protected forests should be the same in the Bhivandi as in the Panvel *táluka*. The question of ráb needs special treatment in the Bhivandi *táluka* where the proportion of *varkas* to *kharif* land is comparatively small and much of the former class of land only produces grass, where the population is numerous and the area of land under forest conservancy is very considerable. The extent of common land from which the cultivators can obtain materials for *ráb* without any restrictions whatsoever will be largely increased by the addition to the existing common and *varkas* land of the large area, nearly 13,000 acres, of land now included in forest which is to be disforested, but lest even with the supply to be obtained from this area the quantity of materials for *ráb* available should possibly prove barely adequate the Forest Settlement Officer recommends that in the Protected forests of Bhivandi more extensive privileges should be allowed in the matter of cutting stuff for *ráb* than have been granted in Panvel and Sálsette. In the two latter *tálukás* the lopping for *ráb* of 25 varieties of trees is prohibited in the Protected forest, but in the case of Bhivandi Mr. Lawrence proposes that " in Protected forest permission should be given to cut for *ráb* purposes the branches of all trees (excepting, of course, teak, blackwood, sandalwood and fruit trees) when the trees are well grown, prohibition being only made in the case of young saplings, the cutting of which of course is preventive of all growth." This concession, he states, will " at any rate more than double the amount of material available free of cost from forests " and will " in many villages satisfy completely a want which must otherwise be felt." The Collector and the Commissioner strongly advocate the grant of this extended privilege, the former writing that if the course recommended by Mr. Lawrence is adopted " the anxiety of the people will be lightened, their dread removed, and there will be room for hope that instead of opposing forest conservancy they will cordially assist the officers of Government in their work." The Conservator of Forests and the Divisional Forest Officer, whilst pointing out what is undoubtedly the fact that the annual cutting away of the branches of a tree must injure the tree and interfere with its full development, do not oppose Mr. Lawrence's proposals on this head. Mr. Wilkins however observes that if the cutting of saplings is to be altogether prohibited the supply of *ráb* from the Protected forests will be considerably reduced as a large proportion of the tree-growth in that class of forests consists of " what would technically be called a clump of saplings, and he suggests the introduction of a scheme of working the Protected forests on the block system. There would appear to be no reason why Mr. Wilkins' scheme should not be carried out simultaneously with that advocated by Mr. Lawrence with some small variation. As already directed a small compartment, comprising an eighth or a tenth of the total area of the block, might be closed in so far as the lopping of trees is concerned for a specified period, but in the rest of the Protected forest block the lopping for *ráb* of all trees save those kinds specially excepted by Mr. Lawrence should be permitted and even saplings or young trees might be cut provided only that the head shoot is not injured. The Governor in Council sanctions the grant of the privilege as above

described and trusts that the concession will have the beneficial effects anticipated. The practice of the villagers, as noted by Mr. Wilkins in paragraph 12 of his report, of cutting the large branches to serve as firewood is clearly objectionable and should be prohibited.

J. NUGENT,

Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Forest Settlement and Demarcation Officer, Thána (with the map accompanying his report No. 65, dated 3rd May 1884),
The Conservator of Forests, N. C.,
The Survey and Settlement Commissioner,
The Government of India (by letter.)

*Forests:: Supplementary report on the forest settlement of the Bhivandi Táluka of the Thána District.*

No. 4719.

REVENUE DEPARTMENT.

Bombay Castle, 10th June 1885.

Memorandum from the Commissioner, N. D., No. 1952, dated 30th May 1885—Submitting, with his remarks, letters from the Collector of Thána, the Divisional Officer, South Thána, and the Conservator of Forests, N. C., together with a supplementary report No. 71, dated 27th March 1885, by Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the forest settlement of the Bhivandi *táluka* of the Thána District.

RESOLUTION.—Of the lands in the Bhivandi *táluka* which were notified in July last under Section 4 of the Indian Forest Act, 1878, the Forest Settlement Officer now proposes to notify as Reserved forests under Section 19 all except certain *gurcharan* land in Jambioli and Survey Nos. 52 of Gorád and 72 of Chane. The *gurcharan* land in Jambioli and Survey No. 52 of Gorád were notified as proposed Reserved forests by mistake as they are situated in the midst of Protected forests, and it is now proposed to notify them under Section 28 of the Act. As regards Survey No. 72 of Chane the name of the village was misprinted as Chave in the original notification, and as the mistake was not rectified till March last, the necessary notification in regard to the number could not be locally published and the requisite enquiries made before the date of the present report. The draft notification under Section 19 in respect of the remaining lands submitted by the Forest Settlement Officer should be published in the *Government Gazette*. No rights have been found to exist in these lands except certain rights of way and of access to water.

2. Since the submission of his original report on the forest settlement of the *táluka* the Forest Settlement Officer has acquired by exchange or purchase certain occupied lands measuring 44 acres 33½ *gunthás*, which are required for forest purposes. Out of this area it is proposed to include 38 acres 20½ *gunthás* in Reserved forests, and the remainder in Protected forests. To the area of Reserved forests the addition is further proposed of certain waste lands, measuring 2 acres 36 *gunthás*, situated in the villages of Khadki Budrukh and Kelhe, which were inadvertently omitted from the list formerly submitted; and the *gurcharan* land in Jambioli and Survey No. 52 of Gorád mentioned in paragraph 1 above have been included in the proposed area of Protected forest. These proposals meet with the approval of all the officers whose reports have been submitted, and the necessary notifications to give effect to them should be published in the *Government Gazette*. There now only remain to be acquired for forests a few occupied numbers measuring about 208 acres, for which negotiations were in progress at the date of the report. As regards the question of the purchase for forest of occupied land the Governor in Council concurs in the remarks made by the Conservator of Forests in paragraph 3 of his letter, to which the attention of the Forest Settlement Officer should be drawn.

3. The proposed disforestment of certain salt marsh lands measuring 599 acres 16 *gunthás*, which were notified as Protected forests in March 1879, appears to be clearly desirable, and meets with no objection from the Forest Department officers. The requisite notification directing the exclusion from Protected forests of these lands and of a portion of Survey No. 180 of Kasne, measuring 3¼ *gunthás*, which is stated to have been notified by mistake, should accordingly be published in the *Government Gazette*.

4. As regards the question raised by the Forest Settlement Officer regarding the privileges to be allowed to non-resident holders of land in forest villages, the orders already passed on the subject in the case of Sálsette in paragraphs 7 and 8 of Government Resolution No. 2831, dated 8th April 1885, should be held applicable to Bhivandi and other *tálukás* in the Thána District.

5. The privilege of collecting the leaves of the *palas* has already been conceded to the inhabitants of forest villages and the wild tribes by paragraph 15 of Government Resolution No. 3890, dated 14th May 1885, and no further orders are necessary on this point. As regards teak leaves, in respect of which a similar concession is recommended by the Forest Settlement Officer, the Governor in Council is pleased to sanction the modified proposal of the Conservator of Forests, N. C., which is apparently supported by the Commissioner, N. D., that the inhabitants of forest villages should be allowed to take free of charge for their own use leaves from teak trees growing in Protected forests and in occupied numbers, and from the trees felled within the area of Reserved forests that may be set apart for felling operations each year in accordance with the orders passed in paragraph 12 of Government Resolution No. 3890, dated 14th May 1885. This concession should be extended to the other settled *tálukás* of Thána and Kolába, but it should be clearly understood that it will be withdrawn if it is found that on pretence of merely plucking the leaves the branches are lopped and injury is caused to the trees.

6. Mr. Lawrence recommends that *kárvi* from Protected forests and thorns from forests of either description should be allowed to be removed without the pass which must now be obtained under the orders passed in paragraph 15 of Government Resolution No. 5251, dated 1st July 1884. This proposal is unobjectionable in so far as *kárvi* is concerned and may to that extent be sanctioned, but as regards thorns there is as is pointed out by the Forest officers much to be said against allowing indiscriminate cutting, and neither the Collector nor the Commissioner would appear to favour the grant in respect of Reserved forest of the privilege advocated by Mr. Lawrence. In Protected forests therefore forest villagers may be allowed to remove thorns without passes, but as regards Reserved forests it is essential that the restriction already imposed should be maintained. Such a restriction is not likely to operate with hardship if care is taken to see that no undue delay is allowed to occur in complying with applications for passes.

7. The proposal to allow villagers to take free of charge earth and stones required for purely agricultural purposes from Protected forests and with the previous permission of the round guard in charge from the unclosed portions of Reserved forests meets with the concurrence of the Conservator of Forests and his approval.

8. The Collector and the Forest officers agree that there is no reason, as proposed by the Forest Settlement Officer, to treat the Chavindre-Pogaon Reserved forest block on a different footing from other Reserved forests as regards the privilege of *ráb* cutting.

9. As regards the draft notification under Section 29 (*a*) submitted with the report, the Forest Settlement Officer should be requested to submit a revised draft mentioning in it the survey numbers in which it is proposed to reserve the *mowra* tree and the numbers and dates of the notifications by which those survey numbers were declared Protected forests.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Commissioner, S. D.,
The Collector of Thána,
The Collector of Kolába,
The Forest Settlement Officer, Thána (with extract paragraph 3 of the letter from the Conservator of Forests, N. C.),
The Forest Settlement Officer, Kolába,
The Conservator of Forests, N. C.,
The Conservator of Forests, S. C.,
The Editors' Table, Bombay.
The Branch Editors' Table, Poona, *care of* the City Magistrate, Poona (with copies of previous Resolutions on the Thána Forest Settlement reports).

*Forests: Report on the demarcation and settlement of—in the Karjat táluka of the Thána District.*

No. 8018.

REVENUE DEPARTMENT.

Bombay Castle, 10th October 1884.

Letter from the Commissioner, N. D., No. 2957, dated 22nd August 1884—Submitting a letter No. 2801, dated 29th May 1884, from the Collector of Thána, together with a report No. 71, dated 15th idem, by Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the demarcation and settlement of forests in the Karjat *táluka* of that district; appending reviews of the report by the Divisional Forest Officer, South Thána, and the Conservator of Forests, N. C.; and making remarks.

Memorandum from the Collector of Thána, No. 5124, dated 27th September 1884.

RESOLUTION.—Mr. Lawrence has given an explanation of the delay which has occurred in the submission of his report on the settlement of the forests in the Karjat *táluka*, which is sufficient, but it is to be regretted that final orders cannot be passed on the proposals which he has now submitted, owing to the divergent views held by the officers through whom the report has been forwarded to Government, and also, to some extent, to a want of completeness in the proposals themselves.

2. Karjat *táluka* comprises an area of $352\frac{7}{10}$ square miles or 225,728 acres with a population of 82,062. The area already under forest is 56,176 acres 22 *gunthás*, or nearly one-fourth of the *táluka*. Of this area 26,221 acres 26 *gunthás* were declared to be Reserved forest and 11,875 acres Protected forests by Government Notification No. 4 F, dated March 1st, 1879, under Section 34 of the Indian Forest Act, 1878; by Government Notification No. 4628, dated June 19th, 1883, the Mátherán forests, which are 1,648 acres 12 *gunthás* in extent, were declared Protected forests under Section 28 of the Act; and by Government Notification No. 5291, dated July 16th, 1883, 16,431 acres 25 *gunthás* were proposed to be constituted Reserved forest under Section 4.

3. The proposals now made by the Forest Settlement and Demarcation Officer are that out of the existing forests 3,324 acres 12 *gunthás* of Reserved and 5,981 acres 26 *gunthás* of Protected forest should be disforested, and that 2,352 acres 12 *gunthás* of Reserved forest should be converted into Protected, and 3,299 acres 37 *gunthás* of Protected forest into Reserved. He proposes that 9,827 acres 30 *gunthás* of unassessed waste and 74 acres 33 *gunthás* of assessed waste land should be notified under section 4 of the Act as proposed to be reserved, that 7 acres 12¼ *gunthás* of occupied land which have been acquired should be similarly notified, and that 380 acres 24 *gunthás* should be acquired hereafter for the same purpose. For Protected forest he proposes an additional area of 1,015 acres 28 *gunthás*, of which 222 acres 30 *gunthás* are to be acquired. The net result of the proposals would be to increase the area under forest by nearly 2,000 acres.

4. The Divisional Forest Officer, South Thána, considers that Mr. Lawrence has not included in forest a sufficient area in the *khoti* village of Khándas, the *izáfat* villages of Pátraj and Kurang and in certain *nángarbandi* villages of which he forwards a list. He points out that the lands to which he refers are hilly and rugged and in every way suitable for forest, and that they are on the drainage slopes of important streams, and he submits that they might be included in forest without causing any hardship to the villagers. There seems to be force in Mr. Wilkins' remarks, which are supported by the Conservator of Forests, N. C., and in part by the Commissioner, N. D., and it is to be regretted that Mr. Lawrence did not ascertain and consider the views of the Divisional Forest Officer before submitting his report. The Governor in Council has frequently desired that the opinion of the Forest officers should be obtained in framing demarcation proposals. The Demarcation Officer should consult every local official concerned in forests or agriculture and any differences of opinion should be placed before the Commissioner and Conservator, that, if possible, unanimity may be attained before proposals are submitted to Government. The excessive bulk and complexity of forest settlement reports might thus be greatly reduced. In this case Government have no choice but to exclude from present consideration the proposals of Mr. Lawrence for demarcation in regard to the villages named in paragraph 1 of the Conservator's report until they have been dealt with as is pointed out above.

5. By Resolution No. 3703, dated 8th June 1882, a scheme was approved by Government for the assignment of additional plots of land for the supply of *ráb* materials to occupants of rice-land who do not possess sufficient *varkas* land for that purpose. It was directed that the land so assigned should be classed as Protected forest. Mr. Lawrence has demarcated the lands as directed, but he now recommends that the land should be given out with full occupancy rights. The assignment of 1,680 acres 26 *gunthás* is much less than was expected (except by the Survey Commissioner) and may be sanctioned. There is a conflict of opinion on the question whether these lands should be constituted Protected

forest, or disforested and made over in occupancy. The Commissioner, N. D., proposed in 1882 that there should be no occupancy rights, that forest trees should be reserved, cultivation prohibited, and the only right conceded that of collecting leaves and cutting brushwood and low jungle: in short that the land should be used for *ráb* only. The Commissioner now advocates the grant of occupancy rights, and remarks that in the proposals submitted by the Survey Commissioner on which Government Resolution No. 3709, dated 8th June 1882, was passed, the retention of the land as Protected forest was not contemplated. This is true, but Mr. Stewart did contemplate large reservations of trees. Mr. Sheppard recommends the Dahánu system, which leaves the use of all trees except teak and blackwood to the rayats of forest villages for agricultural and building purposes but not for sale. The difficulties found by Mr. Lawrence in keeping these assignments in forest arise from the fact that the assigned land is to be assessed, that cultivation of coarse grains on them will be prevented, and that administrative difficulties will arise from the rule that allotments of these lands can only be transferred along with "unascertained *kharif* lands to which they are supposed to be appended." The last difficulty is not understood, as the Resolution above quoted distinctly directed that defined plots of the assigned *varkas* should be attached to defined plots of rice-land. With regard to cultivation it is understood that the 1,680 acres are now Reserved forest, and if they are converted into Protected forest cultivation is not thereby precluded but only brought under control. The Karjat settlement as bearing on cultivation in unassessed land is peculiar. At the original settlement the *varkas* lands were left in huge blocks, without any division into survey fields, and in consideration of a certain extra assessment, the villagers were guaranteed the use of the waste land of the village for *ráb*, grass and also for *varkas* cultivation. Afterwards 55,488 acres of *varkas* in 27,747 holdings were made over in occupancy, and it is understood that the rights of the occupants over the waste lands of the village generally were satisfied and commuted by this allotment. But in consequence of an indiscriminating forest demarcation, the rights of certain villages were not so commuted, and it is to put these on the same footing as the rest that the assignment of 1,680 acres 26 *gunthás* is now being made. Meanwhile the right which the Forest Settlement Officer has admitted, that "all villagers holding rice-lands have under the settlement a right to use the unassessed waste lands of the village, except the old forest and *gurcharan*, for *varkas* cultivation and other purposes," has expired with the settlement, though Government will not of course curtail any such rights hitherto exercised, as long as a payment for them is included in the rates in force. But on the other hand it seems a fair view of the matter that the assignment of 55,488 acres in 1875, now to be supplemented by the assignment of 1,680 acres 26 *gunthás*, is an adequate equivalent of the right defined by the Forest Settlement Officer which has lapsed. How and on what lands since the forests were demarcated that right has been exercised is not made clear in any report before Government. The Commissioner of Survey has observed on the subject of the assessments in Karjat, that "there can be but little doubt as to the expendiency of altering existing conditions by assessing the rice-lands on their own merits independently of *varkas*, and treating the *varkas* lands independently on the same principle." Mr. Lawrence has pointed out that the cultivation hitherto allowed in large areas of unassessed waste is the source of much of the food supply of the people and this is a matter which must on no account be left unconsidered. The revision survey will carefully estimate the requirements of the people in land for cultivation and may perhaps distinguish land to be devoted to the plough from land to be used strictly for the supply of *ráb*. It is possible that the 1,680 acres 26 *gunthás* may then be devoted to *varkas* cultivation, while any *ráb* facilities which are required in addition may be granted in the forests as privileges. But this is one of many questions which will come up at the revision settlement, and although it is open to Government to reserve any trees they please in these lands under the new Rule 98A., yet on the whole, as occupancy rights once granted cannot be re-acquired without much expense, and as land really used as *shindádi* is more properly of the nature of Protected forest than of occupancy land, it appears to His Excellency in Council preferable to constitute the 1,680 acres 26 *gunthás* Protected forest for the present, on the understanding that any right of cultivation found by the Forest Settlement Officer to have been exercised hitherto, as above stated, will not be obstructed therein until a revised settlement has been introduced. These lands will thus be left to be dealt with as to assessment and otherwise in the proposals for revision settlement. These orders apply to the *varkas* land in the villages of Sálpe, Khadavli and Lavej which the Forest Settlement Officer proposes to disforest.

6. The Forest Settlement Officer urges that under the revision survey and settlement now being carried out in the *táluka* the rights of Government over trees in occupied lands should be distinctly defined, and he recommends that the reservation of seventeen kinds should not be continued. The Collector also considers that Government might with advantage disburden itself of the care of trees on private lands. His Excellency in Council does not understand why the ordinary course of procedure on the completion of the forest demarcation and settlement should not be followed as directed in recent Resolutions of Government. Even if seventeen kinds of trees had been reserved, they would be disposed of under those orders, but the Conservator of Forests, N. C., has admitted that no trees except teak and blackwood were reserved either in the *táluka* generally or in the 27,747 occupancies formed by Mr. Gibson. Unless there is any special reason for suspending Rules 93—98 further than has already been done by special Rule 98A. the orders of Government for disposal of reserved trees will of course be carried out.

7. A difficult question arises in connection with the hill-tribe of Thákurs, who gain their living by cultivation within forest precincts. The Forest Settlement Officer has submitted a carefully considered scheme for dealing with these people. He proposes that their scattered hamlets should as far as possible be collected together into a few villages and that adjoining tracts of land should then be allotted for cultivation. In Appendix Q. Mr. Lawrence has stated in detail the number of families in each village and the lands which he would propose to set apart. The Conservator doubts the possibility of collecting together the scattered hamlets in which the people are accustomed to live, and the Commissioner considers that Mr Lawrence's proposals are not sufficiently clear. Colonel McRae suggests that Mr. Lawrence should be requested to submit an alternative scheme on the lines laid down in Government Resolution No. 6062, dated 28th July 1884, for the settlement of the *dalhi* villages in the Akola *táluka* of Ahmednagar. The necessity for disforesting a large area which Mr. Lawrence's present scheme entails would then be obviated. It is far from desirable to disforest part of the reserves before it is certain that the scheme will succeed. It may be admitted, however, that provision must be made for the Thákurs where they are. His Excellency in Council agrees with Colonel McRae that the plan approved in Akola should be tried. A copy of the Resolution No. 6062, dated 28th July 1884, in which that scheme is described, should be forwarded to the Forest Settlement and Demarcation Officer, and the Commissioner, N. D., should be requested to place the services of Ráo Sáheb Bháu Rámchandra at the disposal of Mr. Lawrence on the return to duty of the latter officer, to assist in the arrangement of the details. There seems to be no reason why the *ráb* and other privileges of the Thákurs should not be the same as those of similar wild tribes in Panvel (*vide* paragraph 15 of Government Resolution No. 7579, dated 10th October 1883).

8. The rest of Mr. Lawrence's proposals are similar to those made in the case of the *tálukás* of Panvel, Sálsette and Bhivandi, and the orders passed on the settlement of the forests in those *tálukás* are mostly applicable. The work of demarcation appears to have been carried out with care, and the results, which are supported by the officers of the Forest Department, may be approved. Except rights of way few rights against Government have been found to exist in the forests, and Mr. Lawrence's decisions on these points may be accepted.

9. As regards privileges to be conceded in Reserved forests the orders in paragraph 12 of Resolution No. 5251, dated 1st July 1884, on the settlement of the forests in Bhivandi *táluka*, may be adopted and as regards the privileges to be allowed to inhabitants of non-forest villages, and to Thákurs, Kátkaris and Várlis, the orders passed in paragraphs 12 and 13 of that Resolution should be applied also to Karjat. Mr. Lawrence recommends, as he formerly suggested in the case of Bhivandi, that villagers should be allowed to remove thorns and *kárvi* free of charge. The Conservator considers that the removal should be allowed on passes only. The orders passed for Bhivandi in paragraph 15 of the Resolution should be applied. Care should be taken that the passes are granted freely by the Forest officers. The proposals made by Mr. Lawrence with regard to closure of forests are similar to those which have been approved for Bhivandi, and the Divisional Forest Officer has no objection to them. The orders in paragraph 10 of the Resolution mentioned above should be applied.

10. The Protected forests of the Mátherán plateau have not been included in the proposals made by the Forest Settlement Officer with regard to other Protected forests. He reports that no privileges need be conceded in them beyond the collecting of dead-wood and brushwood for domestic use or for sale at the depôt under the Superintendent. Care should be taken that trees are not cut down to be converted into firewood. The Divisional Forest Officer reports that the forests are being much injured by Thákurs taking up wood to the depôt, and he suggests that the forests should be worked on a regular system and thinned annually. But there does not seem to be sufficient reason for a reconsideration of the orders passed in Government Resolution No. 3360, dated 1st May 1883, and as observed by the Commissioner the thinning of the forests is a departmental matter for which the Forest officers should arrange. The Collector is probably correct in stating that the brushwood, which most needs clearing, would be scarcely worth taking to the depôt for sale.

11. Notification No. 1, appended to Mr. Lawrence's report, declaring the lands already notified under Section 4 of the Indian Forest Act to be Reserved forest, should now be published in the *Bombay Government Gazette*. Notification No. 3 declaring that it is proposed under Section 4 of the Act to constitute certain lands Reserved forest, and Notification No. 4 declaring certain lands to be Protected forest under Section 28 of the Act should also be published. Notifications Nos. 2 and 5 directing that certain lands should cease to be Reserved and Protected forest respectively require some amendment before they are published. The lands entered in Appendix Q. to Mr. Lawrence's report, which he proposes to set apart for the cultivation of Thákurs, should be excluded. The supplement to Notification No. 5, which refers to the lands to be assigned for *varkas*, should not be published. The lands to be assigned for this purpose in Sálpe, Khadavli and Lavej, which are to be disforested, should afterwards be notified Protected forests. Notification No. 2 also requires amendment as it stands. Part of the lands referred to have been notified under Section 4 of the Act and the rest under Section 34. It is unnecessary

to move the Government of India for permission to disforest lands which have only been proposed for forest under the former section and have not yet been declared Reserved forest under Section 19. A list of the lands which have actually been declared Reserved forest should be prepared with statement of reasons for disforestment for submission to the Government of India. The names of villages should be spelt according to the recognised method of transliteration. It would facilitate the examination of the various appendices if a separate list of all the villages in the *táluka* were forwarded, either in alphabetical order or in the order observed in the *táluka* accounts. The current number of the village in the list should be placed before the name of each village in the appendices.

12. The suggestion made by the Divisional Forest Officer and supported by the Conservator, that the maps of the Topographical Survey should be made use of in forest settlement reports and the effect of the proposals indicated on them, appears to be a good one, and should be adopted in future reports. Colonel McRae reports that the maps can be obtained from the Surveyor General in Calcutta direct or through the Conservator of Forests.

W. P. SYMONDS,

Acting Under Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Forest Settlement Officer, Thána (with the map and a copy of Government Resolution No. 6062, dated 28th July 1884),
The Conservator of Forests, N. C.,
The Survey and Settlement Commissioner,
The Government of India (by letter),
The Conservator of Forests, S. C.,
The Commissioner, C. D.,
The Commissioner, S. D.

*Forests: Report on the Forest Demarcation in the Mokháda Peta of the Shahápur Táluka of the Thána District.*

No. 3554.

REVENUE DEPARTMENT.

Bombay Castle, 4th May 1885.

Memorandum from the Commissioner, N. D., No. 1386, dated 21st April 1885—Submitting a letter from the Collector of Thána, together with a report, No. 39, dated 30th March 1885, from Mr. Atkins, Forest Settlement and Demarcation Officer, Thána, on the Forest demarcation in the Mokháda *peta* of the Shahápur *táluka* of the Thána District; appending reviews of the report by the Divisional Forest Officer, South Thána, and the Conservator of Forests, N. C.; and making remarks.

RESOLUTION.—These papers contain the proposals of Mr. Atkins, Forest Settlement and Demarcation Officer, Thána, for the demarcation of Forests in the Mokháda *peta* of the Sháhápur *táluka* of the Thána District. The tract of country dealt with in the report is essentially a forest tract, being described in the Survey Superintendent's report on the Kolvan Settlement as "long undulating stretches of *mál* or *varkas* land intersected by precipitous and rocky ravines, the rice cultivation being almost confined to isolated patches in the bottom of small *nálás*, until in the northern portion of the *peta* and in Talásri the country becomes impermeable, except on foot, and rice cultivation is all but superseded by that of the *mál*. Owing to the wild nature of the country the regular Survey Settlement was not introduced in the *peta* and most of the cultivable lands were given out on a system of temporary leases known as the *nángarbandi* and *khásbandi* tenures. Under the latter tenure the cultivator "held a certain quantity of rice and *varkas* land which together formed his *khás*, the two descriptions of soil being held together and the ownership being well known and acknowledged" while under the former system "the revenue was raised by a tax on the plough, the rayat cultivating wherever he pleased and as much as he could, but no individual as a rule claiming ownership over any particular spot." As most of the land cultivated is held on the *nágarbandi* tenure, the result has been that there is a large amount of *varkas* land lying unoccupied in the *peta* which can be converted into forest without raising any discontent among the inhabitants. Moreover the present occasion is a most favourable one for effecting a final demarcation of forests in the *peta*, as the revision survey has just been completed and therefore lands which are not wanted for forests can be given out for cultivation.

2. The Mokháda *peta* is divided into two *máháls*, the Talásri *mahál* and the Mokháda *mahál* proper, and comprises in all 69 villages, of which 63 are Government, three *izáfat* and three *inám* villages. The total area of the *peta* is 164,018 acres, of which 33,370 acres were declared to be Reserved forests on March 1st, 1879. Of this area it is now proposed to disforest 2,580 acres, thus leaving in forests 30,790 acres, to which it is proposed to add a further area of 19,960 acres of waste or occupied land. These proposals, if sanctioned, will bring up the total area of Reserved forests in the *peta* to 50,750 acres or nearly 31 per cent. of the entire area of the *táluka*.

3. As regards the Talásri *mahál* and the northern portion of the Mokháda *mahál* the work reported on has all been done by Mr. Atkins. The main feature observable in Mr. Atkins' work is the entire separation of forest from cultivation. This is especially the case in the Talásri *mahál*, which naturally divides itself into three large tracts—(1) the central portion which is comparatively level and open land fairly adapted for cultivation, and (2) and (3) the portions lying at either end of the central tract, which are for the most part rugged and hilly and covered with thick jungle. This *mahál* has a total area of 43,737 acres, of which 8,228 acres were declared Reserved forests on March 1st, 1879. Mr. Atkins proposes to retain the whole of this area in forests and to add to it a further area of 9,732 acres, thus raising the forest area in the Talásri *mahál* to 17,960 acres. The result of such a measure would be the restriction of cultivation to the central tract which is best suited for the purpose, and the formation at the north-eastern and south-western ends of the *mahal* of two large forest blocks called the Kokda and the Dahul blocks. The area of the Kokda block according to Mr. Atkins' proposals would be 9,710 acres, and that of the Dahul block 8,250 acres.

4. In the northern portion of the Mokháda *mahál* demarcated by Mr. Atkins himself it is proposed to retain in forests the whole area (3,751 acres) notified on March 1st, 1879, and to add to it land measuring 4,129 acres. The total area thus formed, *viz.*, 7,880 acres, is comprised in two blocks, one of which called the Asechás block has been formed in fine *nágarbandi* villages and contains 6,110 acres, while the other block of 1,770 acres lies in three *khásbandi* villages.

5. The proposals of Mr. Atkins described in the two preceding paragraphs meet with the entire concurrence of all the officers who have reported on the subject and appear to His Excellency the Governor in Council to be sound and judicious and should accordingly be sanctioned.

6. The only difficulty in the way of the adoption of the Forest Settlement Officer's recommendations concerning the forest demarcation of the Talásri *mahál* lies in the fact that to carry them out it is necessary to incorporate four villages—Ákra, Ahira, Palshin and Dahul—with their hamlets and lands in Reserved forest, permitting neither dwellings nor cultivation within the forest blocks. To attain this end the present inhabitants of the villages must be moved elsewhere and provided with fresh homes and other lands for cultivation. Such a measure may *primâ facie* appear somewhat strong, but in reality it is not difficult nor is it calculated to cause much annoyance or inconvenience to the persons affected. The area of the lands of these four villages and their minute scattered hamlets is 8,249 acres, of which 2,283 acres are now in Reserved forest; but the area of land under cultivation of any value is in all less than 36¾ acres, and the annual Government assessment of the four villages combined amounts to but Rs. 173-14-9. The inhabitants are Várlis, members of one of the wildest aboriginal tribes in the Thána District, who lead a nomadic life, constantly wandering from place to place, and deserting their habitations at a moment's notice for superstitious reasons, whose mode of cultivation is of the rudest description, and all whose ways and habits are of the most primitive character. In the four villages there are only 38 *khátedárs*, and the majority of the inhabitants apparently earn by cattle-breeding their scanty livelihood. To such people it is no hardship nor anything unusual to shift their quarters and to transfer what little property they possess and the moveable portions of their humble and unsubstantial huts to other villages and fresh lands at a distance of a few miles. The Governor in Council accordingly approves of the proposal made by Mr. Atkins and concurred in by all the other officers whose reports on the points are before Government, that steps should be taken to move the inhabitants of these four villages and their hamlets to other neighbouring villages in the Mokháda *peta* or to adjacent villages in the Dahánu *táluka* bordering on Mokháda, where suitable land and village sites are stated to be easily procurable. The Várlis should be treated with all possible consideration. Their transfer should put them to no expense. Mr. Atkins should arrange that they are compensated for whatever they have to abandon, are granted adequate free grants of wood to enable them to construct their huts on the new lands assigned to them, and that they are given for cultivation sufficient allotments of land. If the measure is carried out with tact and judgment no compulsion will probably be necessary and it will not be requisite to have resort to the Land Acquisition Act.

7. With a view to assist him in the work of removing the Várlis, Mr. Atkins proposes that the present *Mahálkari* of Mokháda, *ázam* Chintáman Gopál, who is familiar with that part of the district and conversant with the ways of its inhabitants, may be placed on special duty under his orders immediately after the rains. This proposal is sanctioned, and the Collector should be requested to take the necessary steps with a view to give effect to it.

8. The Governor in Council approves of the proposal contained in paragraph 14 of Mr. Atkins' report that in case it is found difficult to remove the hamlet of Toranpáda from its present site in the middle of the Asechás forest block, the Thákurs should be allowed to continue to cultivate their lands as tenants of the Forest Department in accordance with the plan sanctioned for the Akola *táluka* of the Ahmednagar district in Government Resolution No. 6062, dated 28th July 1884. Every endeavour should, however, be made to remove the hamlet from its present site and the Governor in Council has little doubt but that its inhabitants if liberally treated and dealt with in the manner directed in the case of the villagers of Ákra, Ahira, Palshin and Dahul will without objection assent to a change of location.

9. The southern portion of the Mokháda *máhál* proper measures 69,148 acres and comprises 25 Government villages in addition to three *izáfat* and two *inám* villages. The area originally notified in this tract as Reserved forest was 21,390 acres. It is now proposed to disforest 2,580 acres and to add 6,100 acres, thus raising the total forest area to about 24,910 acres.

10. The proposals described in the preceding paragraph are the result of forest demarcation performed by Messrs. Ebden and Gibson in this tract between the years 1880 and 1882. The Forest Settlement and Demarcation Officer does not suggest any modifications in these proposals. It is neverthless clear from paragraphs 26 and 27 of Mr. Atkins' report that in some respects the demarcation proposed by Mr. Ebden cannot be accepted in its entirety. The lands proposed to be disforested include certain lands in Sávarda and Kochale, which along with certain other lands in the same villages and in the adjoining village of Kinaste mentioned in Appendix 8 to Mr. Atkins' report should obviously be retained in Reserved forests. These lands are situated on the banks of the Vaitarna, the largest river in the Thána District, and between the river and the hills rising at some distance beyond it. The main difficulty in the way of the reservation of these lands for forests arises from the fact that they have already been divided by the Survey Department into *varkas* numbers, and allotted to occupants who have been put to some expense in erecting boundary-marks, &c. Mr. Atkins, though obviously of opinion that these lands should have been kept in Reserved forest, considers in his report that in the circumstances the *status quo* should not be disturbed, and with a view to the preservation of the tree-growth on the lands, he makes certain suggestions the effect of which would be to bring the lands under the Dahánu Survey Rules in regard to trees, subject to

certain further restrictions not provided for in those rules. The Commissioner concurs in the suggestions made by Mr. Atkins. On the other hand the Divisional Forest Officer, the Collector, and the Conservator of Forests are opposed to the adoption of the compromise proposed by Mr. Atkins, and agree in holding that in the interests of forest conservâncy it is of the utmost importance that the Forest Department should have unrestricted control over the lands in question. The Collector at the same time states that though "the lands have been allotted to cultivators they have not had time to make any improvements in them, and if they are repaid the cost of the boundary marks no hardship will be caused." On a full consideration of all the circumstances His Excellency the Governor in Council is of opinion that the adoption of the course proposed by Mr. Atkins is likely to give rise to constant friction between the Forest Department and the occupants and that it would be distinctly preferable in the interests of all parties to constitute these lands permanently Reserved forests. Mr. Atkins should therefore with the help of the *mahálkarí* of Mokháda open negotiations with the occupants for the acquisition of the lands in question and report the result to Government in due course. The most liberal compensation may be given to the occupants if survey occupancy rights have been acquired, which seems doubtful seeing that the settlement has not been sanctioned by Government. The Forest officers are also opposed to the exclusion from forests of about 90 acres of land in the village of Amble, which is proposed on the ground that it is not expedient to remove from its present position a small and insignificant hamlet now in existence on the land. This land is however situated in the middle of a large forest block, and it appears from the Collector's report that other land can easily be provided for the inhabitants of the hamlet in the adjoining village of Suryamál. In the circumstances it is clearly desirable to remove the hamlet from its present site and retain in forest the land proposed to be disforested. Mr. Atkins should be requested to take the necessary steps with a view to give effect to these orders, following the procedure ordered to be pursued in the case of the 4 villages in the Talásri *mahál*. The lands described above in the villages of Sávarda, Kochale and A'mble should accordingly be omitted from the list of lands to be disforested and the Government of India should be moved to sanction the exclusion from forests of the other lands entered in that list.

11. The draft notification under Section 4 of the Indian Forest Act submitted by the Forest Settlement and Demarcation Officer, in respect of certain lands which are immediately available for forests, should be published in the *Bombay Government Gazette*.

12. Mr. Atkins deserves credit for the careful and satisfactory manner in which he has carried out the work of Forest Demarcation in the *peta* and for his able and lucid report.

J. NUGENT,
Secretary to Government.

To
The Commissioner, N. D.,
The Collector of Thána,
The Forest Settlement Officer, Thána (with the maps),
The Conservator of Forests, N. C.,
The Survey and Settlement Commissioner,
The Accountant General,
The Government of India (by letter).

*Forests : Report on the Demarcation and Settlement of the—in the Kalyán Táluka of the Thána District.*

No. 3890.

REVENUE DEPARTMENT.

Bombay Castle, 14th May 1885.

Letter from the Commissioner, N. D., No. 1443, dated 25th April 1885—Submitting, together with subsequent correspondence, a letter No. 6536, dated 25th December 1884, from the Collector of Thána, together with a report No. 142, dated 28th November 1884, by Mr. Atkins, Forest Settlement and Demarcation Officer, Thána, on the demarcation and settlement of the forests in the Kalyán *táluka* of the Thána District; appending reviews of the report by the Conservator of Forests, N. C., and the Divisional Forest Officers, North Thána and South Thána; and making remarks.

RESOLUTION.—Including 6,726 acres of land situated in alienated villages the total area of the Kalyán *táluka* is 177,955 acres. The population is about 78,000, giving an average of 280 inhabitants per square mile. The *táluka* is one of the most prosperous and fertile sub-divisions of the Thána Collectorate. The area notified as Reserved and Protected forest on March 1st, 1879, amounted in all to 45,524¼ acres, of which 16,594$\frac{17}{40}$ were reserved and 28,929 $\frac{23}{40}$ acres were Protected forest. Of the Reserved forest 337$\frac{19}{20}$ acres, and of the Protected forest 688 $\frac{37}{40}$ acres have already been disforested. The present aggregate forest area is consequently 44,497$\frac{3}{8}$ acres, 28,240$\frac{9}{10}$ acres being entered as Protected and 16,256$\frac{13}{40}$ acres as Reserved forest.

2. The Forest Settlement Officer Mr. Atkins as the result of a careful and minute personal inspection of all the lands of the *táluka* now proposes to disforest 564$\frac{7}{40}$ acres of the existing Reserved forest, to constitute as Reserved forest 1,257 $\frac{37}{40}$ acres of unassessed and 2,293$\frac{3}{40}$ acres of assessed waste land, to add to Reserved forest 51$\frac{17}{20}$ acres of occupied land of which he has secured possession by purchase or exchange, to convert into Reserved forest 16,480$\frac{1}{40}$ acres of land now included in Protected forest, and eventually to obtain for Reserved forest 455$\frac{1}{8}$ acres of land at present in occupation. The adoption of these proposals would raise to 36,230½ acres approximately the eventual Reserved forest area or more than double what it now is. The present Protected forest area is about 28,240¼ acres. Mr. Atkins recommends that of it 9,706 acres should be disforested, 16,480 acres should be made Reserved forest and the remainder, some 2,054¼ acres, should be retained as Protected forest, and to it should be added some 203 acres of assessed waste land available and suited for the purpose. The total eventual forest area would accordingly be 36,230½ acres of Reserved and 2,257¼ acres of Protected forest or in all about 38,488 acres, being 21·6 per cent. of the entire acreage of the *táluka*.

3. These proposals of the Forest Settlement Officer meet in most respects with the approval of the Commissioner, the Collector, the Conservator of Forests and the Divisional Forest Officers and appear to the Governor in Council to be on the whole very judicious and well considered. Several extensive and important forest blocks are formed: many isolated plots of land of which the value for forests is small and proper conservancy would be difficult, expensive, and a source of discomfort to the population are finally thrown out of forests: suitable pieces of waste land adjoining blocks of forest are taken up for inclusion in those blocks, and whilst the Protected forest area is immensely reduced, the aggregate area of forest is curtailed by over 6,000 acres of land of little worth for forests, and liberal privileges are suggested to compensate for any inconvenience to the villagers which might arise from the conversion into Reserved forest of about ¼ of the present Protected forest.

4. No objection is raised by the officers of the Forest Department to the proposed disforesting of 564$\frac{7}{40}$ acres of Reserved, and 9,706 acres of Protected forest, and Mr. Atkins has shown ample cause why his suggestions on this head should be adopted. A notification should therefore be issued disforesting the Protected forest lands in question, and the Government of India should be moved to sanction the exclusion from Reserved forest of the lands entered in that category of which the further retention is deemed undesirable. These lands, Protected and Reserved, when disforested, will revert to the charge of the Revenue Department, and it is clearly advisable that the Collector should take measures to prevent the entire destruction of the tree and bush growth on them, and to maintain them as lands from which a supply of *ráb* materials will always be procurable, and on which grazing will be available for the village cattle.

5. The assessed and unassessed waste numbers specified by the Forest Settlement Officer as needed for inclusion in Reserved forest, and as being at the disposal of Government for that purpose should, together with the occupied lands acquired by Mr. Atkins, be now notified under Section 4 of the Act. Lists of the lands now occupied but embraced within the demarcation limits should be printed and copies of them furnished to the Forest and Land Revenue Officers concerned, and as these lands are relinquished or forfeited or are obtained by purchase or exchange they should be notified under Section 4 and brought under forest conservancy. The requisite notification should also be published regarding the waste assessed lands proposed to be made Protected forest.

6. With one exception the proposals of the Forest Settlement Officer concerning the conversion into Reserved forest of certain Protected forest lands and their notification under Section 4 of the Act are sanctioned. As regards survey number 248 of Chargaon the Governor in Council is unable to agree with Mr. Atkins. This number now in Protected forest contains about 324¾ acres. Within it are comprised "very many small occupied rice numbers" held by Thákurs, with which the cultivators are unwilling to part, for which there is no land available to grant in exchange, and which could not be taken up under the Land Acquisition Act without causing extreme and unjustifiable hardship. The Thákurs moreover have always been allowed to get their *ráb* in this number and the Forest Settlement Officer states that "strict conservancy measures would for some time to come be impossible." Mr. Atkins whilst proposing the conversion of this land from Protected into Reserved forest recommends that for the present at least it should be practically treated as if it remained Protected forest. In these circumstances the utility and expediency of changing this number from Protected to Reserved forest are not apparent. It should therefore continue to be Protected forest and should not be notified under Section 4.

7. It would not be in accordance with the expressed views of the Government of India to transfer the lands mentioned in paragraph 55 of the Forest Settlement Officer's report from Reserved to Protected forest, but though still in name Reserved forest they should in respect of the privileges permissible in them be treated as if they were Protected forest.

8. The Commissioner, N. D., advocates the total exclusion from forest of the 2,054 acres of land which now being Protected forest Mr. Atkins recommends should be retained as such. He contends that the description of these lands as given in paragraph 48 of the report clearly proves the utter undesirability of keeping them as forest of any kind. The Governor in Council is unable to accept this view. The numbers in question doubtless are unsuited from their dimensions, situation and other circumstances enumerated by Mr. Atkins for strict conservation, and therefore they are not to be converted into Reserved forest, but still some degree of forest conservancy in regard to them is advisable. Liberal privileges may be granted in them as recommended by Mr. Atkins, but the ultimate annihilation of all the tree-growth on them which would in all probability be one consequence of their disforestment is to be deprecated and this can be prevented by their retention in Protected forest. The Commissioner has apparently overlooked the fact that regarding these lands the Forest Settlement Officer states that they are well wooded and situated near large Reserved forest blocks, and that "many of the trees on these lands are worth protecting."

9. Save in one particular the demarcation recommended meets with the approval of the officers of the Forest Department. Mr. Wroughton objects to the proposed disforestment of 383 acres now comprised in the Parsik range forest block and whilst retaining them would add some 400 more acres to the block. Mr. Wilkins objects only to the disforestment of 63 acres and would be content with a small additional area. The Conservator is inclined to concur with Mr. Wilkins, but would take up a little more additional land than that officer proposes; he does not however desire to press the point as he fears that, as certainly would be the case, the acquisition of any occupied lands in that portion of the *táluka* would be a difficult and costly measure, and considers that Mr. Atkins has made his selections with great care. The Forest Settlement Officer has since had an opportunity of replying to the remarks of the Divisional Forest Officers and in his rejoinder has conclusively proved the inexpediency of carrying out Mr. Wroughton's proposals or even the more moderate suggestions made by Mr. Wilkins. The demarcation recommended by Mr. Atkins in respect of the Parsik block and also of the other forest lands in the *táluka* may therefore be accepted as final.

10. The remarks of the Forest Settlement Officer concerning his inquiries into rights, the judicial and legal aspects of the question, and the conclusions at which he arrived are extremely lucid, able, and interesting and appear to the Governor in Council to be perfectly sound. Mr. Atkins' decisions as to rights may therefore be accepted. He has negatived all claims to rights of cutting wood and materials for *ráb*, explaining clearly and fully the grounds on which he based his orders, and has admitted many rights of way, of access to water, and of approach for worship to shrines and idols situated within forest limits.

11. The question as to the privileges to be allowed in the Government forests presents greater difficulties. As elsewhere in the Thána District so in the Kalyán *táluka* the matter of the chief consequence in so far as privileges are concerned is as to the extent to which the cutting of materials for *ráb* should be permitted in the forests. The remarks by the Forest Settlement Officer and the Conservator of Forests on the subject of the alleged need of *ráb* for rice cultivation and of the relative value of the various substances which can be utilised for *ráb* are of considerable interest and value, but whatever may be the theoretical views on the point it is impossible to avoid the conclusion that *ráb* is necessary or, what is the same thing, is regarded by the cultivators as essential, that the supply of cowdung is insufficient and that large quantities of grass, brushwood and branches are required to supplement and in parts almost entirely to take the place of cowdung. There are two sources from which can be and is drawn the supply of the *ráb*. These are the *varkas* lands and the Government forests. The former were specially given out to the cultivators to enable them to obtain from the trees and jungle growing on them the materials they wanted for *ráb*, and had the tree-growth been used for the purpose intended when it was made over with the land to the

cultivators the supply of *ráb* from the *varkas* lands would have sufficed to meet the requirements of the producers of rice. The holders however of the *varkas* lands when they obtained with them the right to fell and sell the trees standing on them could not resist the temptation of making a little money by selling the timber, and the results have been, first the wholesale denudation of trees of these lands, and then the complaint that the *varkas* lands yielded no *ráb* and the demand that the Government forests should be opened to *ráb* cutting. Having lost all their own tree capital the improvident cultivators desired to make good the deficiency by drawing on the resources of the Government forests. About 32,000 acres of land in the *táluka* are under rice cultivation: under Mr. Atkins' scheme there will be about 96,000 acres of Protected forest, Government waste and occupied *varkas* land, and it might have been expected that the latter area would have furnished *ráb* materials sufficient for the rice lands, the proportion being one acre of rice land to three of other land which 30 years ago was mostly covered with jungle. But such is not the case, and it is asked that from the 36,000 acres of Government forest some supply of *ráb* should be given. The question therefore is how much can and should be granted.

12. It appears to the Governor in Council that in regard to the Reserved forests the ame privileges may be allowed in the Kalyán as have been sanctioned in the Bhivandi and Panvel *táluka, i.e.*, although no lopping of any trees is to be permitted (except in the circumstance hereafter to be mentioned) in the Reserved forest area the inhabitants of forest villages may be allowed to take free of charge for their own use from the unclosed portions of the Reserved forest, and with the permission of the Divisional Forest Officer from the closed portions also, grass, reeds, leaves (other than *tembhurni* and *ápta* ) the 10 classes of shrubs, and generally all brushwood of no value for any other purpose. The *ráb* depôt system appears to have proved a failure, partly owing to the disinclination of the villagers to resort to the depôts, and partly because the materials at those depôts were often when wanted unserviceable for the purpose for which they were required. The Forest Settlement Officer and Mr. Wilkins suggest as a substitute for the unsuccessful depôt scheme a system under which a forest block should be divided into a certain number of compartments of which one or more should be cleared yearly, the timber being felled for sale, and then closed for a period of years, cuttings being thus made in rotation and the block being worked on scientific principles. The inhabitants of the villages in which the block is situated and of adjacent villages in whose forest block no cuttings were that year being effected would under the proposed scheme be permitted to cut and remove not only the brushwood, &c., in the compartment in which the trees were being felled, but also both before and after the trees had been felled to lop and take all the twigs, branches and small boughs not required by the Forest Department for manufacture into fuel. They would thus be provided with a considerable stock of *ráb* materials. The plan thus suggested seems perfectly practicable, and if judiciously carried out will afford much relief to the cultivators. Its introduction need not be deferred pending the preparation of working plans by the proposed new department as the Divisional Forest Officers must be in a position to know and decide when cuttings should be effected and portions of the Reserved forest can be cleared with advantage, even though no scheme has yet been definitely mapped out for annual fellings in fixed localities. Care should be taken to explain fully to the villagers the nature and extent of the privilege thus accorded, to give them timely notice beforehand when and where the cuttings will take place, and so to arrange the date of the cuttings that it shall as far as possible coincide with the time for preparing and burning the *ráb*. This system should be introduced and like privileges granted in the *tálukás* of the Kolába Collectorate and the other *tálukás* of the Thána District where the forest settlement and demarcation have already been finished.

13. In respect of *ráb* privileges in the Protected forest the proposals of the Forest Settlement Officer are approved. The inhabitants of the villages in which such forests are situated may in addition to cutting reeds, grass, brushwood, &c., lop for *ráb* the side branches but not the leading shoot, of all trees growing in the Protected forest except those marginally noted. The prohibition of the lopping of *ain, dhávda* and *báuda* (which are held in special favour for *ráb*) in the unclosed Protected forest areas of the settled *tálukás* of Thána and Kolába may be removed, and in Kalyán also the lopping of these three varieties of trees may be allowed in the Protected forest. The Commissioner is apparently under the impression that the Forest Settlement Officer has recommended, and the Conservator of Forests agrees, that the lopping of *ain* and *dhávda* should only be prohibited in the closed Reserved forest and should be permitted in the open compartments of the Reserved forest as well as in the Protected forest. This however is not the case. It is not, as far as the Governor in Council can perceive, anywhere proposed that the lopping of *ain* and *dhávda* should be allowed in any portion of the Reserved forest. What is suggested is that these trees and *báuda* should be allowed to be lopped in Protected forest, and the Governor in Council is not prepared to assent to any further concession. No part of the Protected forest area in Kalyán can be closed: the entire area must be left open for the exercise of the privileges sanctioned.

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|---|---|---|
| Teak. | *Khair.* | *Nána.* |
| Blackwood. | *Kalam.* | *Koshimb.* |
| *Tivas.* | *Bibla.* | *Hed.* |
| Mango. | *Asána.* | |

14. Save in the 5 villages named in paragraph 54 of the Forest Settlement Officer's report where apparently all the Reserved forest area may be absolutely closed if the

Divisional Forest Officer deems such a measure expedient, the maximum Reserved forest area to be closed at one time in any village should not exceed one-half of the Reserved forest area in that village, except in special cases when the Collector in consultation with the Divisional Forest Officer may assent to the closure of a larger proportion. The Bhál block may be worked as recommended by the Forest Settlement Officer.

15. Whilst proposing to maintain the restriction on the collection of the leaves of the *tembhurni* and *ápta*, which with *mowra*, *shikakái* and *hirda* berries (if any) should be reserved, the Forest Settlement Officer suggests that the inhabitants of forest villages should be permitted to collect the leaves of the *palas* for their own use but not for sale and that the wild tribes should be allowed to collect those leaves for sale as well as for their own use. His proposal is supported by the Collector who states that "the income from the sale of *palas* leaves is small and the removal of a troublesome restriction will tend to make the people more contented with the new arrangements." Mr. Wroughton is entirely opposed to the concession. Mr. Wilkins does not object to it, provided the sale of *palas* leaves by the wild tribes is prohibited. The Conservator concurs with Mr. Wilkins. The Governor in Council is of opinion that the privileges as recommended by Mr. Atkins may be granted in Kalyán and may be extended to the other settled *tálukás* of the Thána and Kolába Districts. He can in the circumstances mentioned by Messrs. Loch and Atkins perceive no valid objection to allowing the forest villagers to collect *palas* leaves for their own use in the Protected and open Reserved forest, or to permitting the wild tribes to sell *palas* leaves so collected by them. This will of course not prevent the Forest Officers from making arrangements for the departmental collection and sale of *palas* leaves, but will merely save the villagers from some inconvenience and give to the wild tribes additional legitimate means of earning a livelihood.

16. The wild tribes in Kalyán may for the present be allowed the same privileges as have been conferred on their brethren in Panvel and Bhivandi. It is however clear that the privileges enjoyed by them are being abused, and being made the means of illegitimately benefiting dealers in fuel at the expense of Government and to the detriment of the forests. The facts mentioned by the Forest Departmental officers furnish conclusive proof of this, and Mr. Atkins apparently thinks that some action is requisite. The system now adopted by timber merchants and traders in firewood of employing large gangs of Káthodis and Várlis to collect wood for them in the Government forests and bring it to their carts or depôts, moving these gangs from forest block to forest block, is one which cannot be tolerated, and some method of checking it must be devised. The advantages of any plan of registration are more than problematical. Mr. Atkins suggests that the wild tribes might be allowed to collect dead-wood for sale only in their own village lands. Mr. Wilkins makes a number of other recommendations. The Conservator would not allow the wild tribes to sell any dead-wood, but it is obviously impossible to issue or enforce so sweeping an interdict. The subject is one of very great importance and should be carefully considered at the headquarters of the district next month when all the officers concerned have gone into Thána for the rains, by a conference consisting of the Collector, the officers in charge of *tálukás* and the Divisional Forest Officers. If Mr. Loch has left before the conference is held he should leave on record his views and proposals for the consideration of its members. Mr. Lawrence should be asked to state his opinion on the subject, and the Conservator of Forests should if possible attend the meetings of the conference. The report of the deliberations of the conference should be submitted to Government without delay for consideration and the issue of such orders as may appear advisable.

17. In all other respects the same privileges both in Reserved and in Protected Forests as have been sanctioned in Panvel should be granted in the Kalyán *táluka*. The scale of grazing fees should be the same as in Bhivandi.

18. Mr. Atkins has merited the high commendation of Government both for his full and able report, and for the judgment and industry displayed by him in the performance of his duties as Forest Settlement Officer.

J. NUGENT,

Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Conservator of Forests, N. C.,
The Forest Settlement Officer, Thána (with the maps),
The Commissioner, S. D.,
The Collector of Kolába,
The Conservator of Forests, S. C.,
The Forest Settlement Officer, Kolába,
E. Lawrence, Esquire, C. S.,
The Government of India (by letter).

*Forests Thána: Forest Settlement and Demarcation of the Bassein Táluka.*

No. 5919.

REVENUE DEPARTMENT.

Bombay Castle, 22nd July 1885.

Letter from the Commissioner, N. D., No. 2319, dated 27th June 1885—Submitting one from the Collector of Thána, together with a report No. 77, dated 1st April 1885, from Mr. Lawrence, Forest Settlement and Demarcation Officer, Thána, on the Forest Settlement and Demarcation of the Bassein *táluka* of the Thána District; appending also reviews of the report by the Divisional Forest Officers, North and South Thána, and the Conservator of Forests, N. C.; and making remarks.

Letter from the Commissioner, N. D., No. 2347, dated 1st July 1885—Submitting, as promised in his letter No. 2319, dated 27th June 1885, the opinion of the Conservator of Forests, N. C., on the question whether in the Reserved forests of the 13 villages mentioned in paragraph 47 of Mr. Lawrence's forest settlement report of the Bassein *táluka ráb* should be allowed to be cut in the manner and to the extent proposed by the Forest Settlement Officer; and making remarks.

RESOLUTION.—The Bassein *táluka* of the Thána Collectorate may be held to consist of two portions. Of these one lies between the B. B. & C. I. Railway and the sea. It has an area of about 50 square miles: is for the most part level: is fertile and well cultivated; and is densely populated, its inhabitants numbering some 40,000, or about 800 to the square mile. In this division of the *táluka* the extent of land at present included in forest is small, and most of the notified forest land is salt marsh of little value for any purpose. Under the proposals of the Forest Settlement Officer no land would be retained for forest in this western portion. The other division consists of the country lying to the east of the railway. It has an area of less than 180 square miles, and the population—about 29,000—is comparatively sparse, averaging some 160 souls per square mile. It contains some fairly thriving villages and some good rice land, but is for the most part a hilly and wooded tract with large natural blocks of valuable forest. In it it is recommended should be concentrated the forests of the *táluka*.

2. The total area of the *táluka* is 141,760 acres. Of this on March 1st, 1879, 25,415$\frac{21}{40}$ acres were notified as Reserved forest, and 42,991 acres as Protected forest, giving an aggregate area of 68,406 $\frac{21}{40}$ acres. To take first Reserved forest the Forest Settlement Officer proposes that of the existing forest lands of this class 245$\frac{1}{2}$ acres should be disforested and 310$\frac{3}{4}$ acres should be made Protected forest, whilst he would convert into Reserved forest 26,545$\frac{23}{40}$ acres of the present Protected forest, add at once to Reserved forest 916$\frac{11}{20}$ acres of waste land available for the purpose, and obtain 82 $\frac{1}{10}$ acres of land now occupied. The result of these proposals would be to raise to 52,403$\frac{13}{20}$ acres the area of Reserved forest, thus more than doubling its present extent. On the other hand it is proposed to reduce to a comparatively insignificant amount the land to be kept as Protected forest. Of the existing 42,991 acres of that class of forest Mr. Lawrence would, as above stated, convert into Reserved forest 26,545 $\frac{29}{40}$ acres, retain as Protected forests 2,503 $\frac{33}{40}$ acres, and entirely disforest the remainder, amounting to 13,941$\frac{9}{20}$ acres. He would add to Protected forests as above noticed 310$\frac{3}{4}$ acres of land now in Reserved forest, 78 acres of unassessed waste land now available and suitable, and 24$\frac{1}{40}$ acres of occupied land to be acquired hereafter by purchase or exchange. The Protected forest area in accordance with these suggestions would be 2,916$\frac{3}{8}$ acres and the total forest area would be 52,403 $\frac{13}{20}$ + 2,916$\frac{3}{8}$ acres, or 55,320$\frac{1}{4}$ acres in all, being about 39 per cent. of the acreage of the *táluka*. The net upshot of the Forest Settlement Officer's recommendations is that whilst the Reserved forest area will be increased more than 100 per cent. the total quantity of land under forest conservancy will be diminished by over 13,000 acres, or nearly one-fifth.

3. Mr. Lawrence has elaborated his proposals with much care and judgment after personal inspection of all the forest lands and investigation of the requirements of the cultivators and cultivation as well as of the Forest Department, and it is satisfactory to see that his scheme meets with the approval of the officers both of the Land Revenue and of the Forest Departments. The most noticeable feature in his recommendations is the enlargement of the Reserved forest area and the consequent decrease in the Portected forest area; but this is strictly in accordance with the recorded views of the Land Revenue and Forest officers who formed the Thána Conference and with the orders of Government passed on their report and there is no reason to doubt that the policy on which it is based is thoroughly sound. The Commissioner, N. D., raises no objection, observing that "the area proposed for reserve is mostly natural hill forest." Regarding the lands now in Protected forest to be made Reserved forest Mr. Lawrence writes that "they are entirely situated upon important hills or the broken ground surrounding them." The proposed demarcation may therefore be approved and should be regarded as final save in the case of

the villages of Sakvár and Bhátáne, concerning which a further report should be submitted by the Forest Settlement Officer. The demarcation in those villages can however best be made on the lines suggested by Mr. Lawrence which is preferable to that advocated by Mr. Wilkins, as is pointed out by the Conservator in whose remarks as contained in the latter part of paragraph 6 of his report Government concur.

4. The requisite notification should now be issued under Section 4 of the Act in respect of the Protected forest lands to be converted into Reserved forest (which must first be formally disforested) and of the waste lands now available which it is proposed to constitute Reserved forest, and also under Section 28 concerning the waste lands to be made Protected forest. The area of the lands now in Reserved forest recommended for absolute disforestment or for conversion into Protected forests is small, being altogether only 556¼ acres. The Forest Settlement Officer has shown good cause for his proposals, which have received the assent of the officers of the Forest Department, and the Government of India should be moved to sanction the exclusion of these lands from Reserved forest under Section 26. On the receipt of that sanction such of the lands to be disforested as are recommended for declaration as Protected forest should be duly notified under Section 28.

5. The necessary notification should be published disforesting the lands which now being Protected forest should not, it is recommended, be retained as forest of any description. The Governor in Council concurs with the Forest Settlement Officer in thinking that it is inadvisable and useless to keep as Protected forest any of the salt marsh lands notified as such, with the exception of the 236$\frac{7}{20}$ acres in 6 villages specified in paragraph 26 of his report. Of the other lands to be disforested some are isolated patches of inconsiderable extent, and others are excluded to provide for the extension of cultivation or because the area of *varkas* land in the villages in the vicinity is very limited and more land is needed for the requirements of the cultivators.

6. The Forest Settlement Officer has acted judiciously in refraining from including in his demarcation much land now occupied, and in only proposing to take up such land when imperatively wanted. The total area thus to be obtained is but 106⅛ acres. These lands should when possible be obtained in exchange for Government waste land and not by purchase which in the Thána District seems a very costly measure. The attention of the Forest Settlement Officer should be called to the remarks in paragraph 7 of Mr. Shuttleworth's letter concerning this subject.

7. Enquiries regarding rights in Protected forest lands remain to be made. They have been effected in the instance of the lands notified as Reserved forest, with the result that only certain rights of way were found to be established. The claim to forest rights of the *khot* of Poman has been disposed of under the orders of Government under the advice of the Remembrancer of Legal Affairs adversely to the claimant.

8. The question as to the nature and extent of the privileges to be allowed in the Government forests to the people is in the Bassein *táluka* as elsewhere in Thána one of primary importance and is perhaps beset with even greater difficulties in Bassein than it is in other *tálukás*, owing to the fact that the bulk of the population resides in the coast division where there are practically no forests. It is easy to provide for the legitimate wants in respect of forest produce of the lesser portion of the inhabitants who live in the much more extensive eastern or forest division, but it is the numerous and thriving dwellers in the prosperous coast villages who are most urgent in their demand for privileges and most clamorous against the restrictions recently imposed or more strictly enforced. It is they who mostly need timber, firewood and other forest produce for agricultural and other purposes, and who having until the last few years been in the habit of taking what they wanted free of charge unauthorisedly from parts of the Government forests or of obtaining it from others who had taken it in a like manner now resent having to pay for what they need. The point to be considered is what privileges can be conceded which whilst meeting all fair and reasonable demands and wants of the people whether living in forest or in non-forest villages will not render the preservation of the Government forests difficult if not impracticable and prevent the State from deriving from its valuable forest property the moderate revenue which it has a right to expect.

9. The Forest Settlement Officer, the Collector and the Commissioner agree in holding that the rates for firewood and bamboos sanctioned by Government on the recommendation of the Thána Conference of 1883 are too high and should be reduced to the scale in force prior to their enhancement in that year, and the Forest Department officers are not opposed to a reduction. The proposal thus made may therefore be sanctioned, it being understood that the benefit of the reduced rates is only to be enjoyed by persons residing in the *táluka* taking the wood, bamboos, &c., for their own *bonâ fide* consumption for agricultural purposes or for a local industry. Dealers will not be entitled to the benefit of the change. No fixed rates at which wood and bamboos should be sold to wood-traders need be determined, but it may be left to the officers of the Forest Department to arrange with the dealers on ordinary trade principles the terms on which forest produce is sold to them from time to time. The Forest Department should arrange to provide increased supplies of miscellaneous timber and of fuel by departmental cuttings when the fellings can be disposed of partly by sale at the reduced rates and partly by auction if the latter course is found advisable.

10. As regards grazing the object to be attained is to provide an equivalent for any free grazing hitherto lawfully enjoyed and the inhabitants of forest villages, not being professional graziers, may be permitted to pasture their cattle free of charge, and also to cut free of charge for their own use grass, in the unclosed portions of the Reserved forests (and with the permission of the Divisional Forest Officer in the closed portions also) and in the Protected forests. Professional graziers and inhabitants of non-forest villages may—provided sufficient grazing is available for their cattle in addition to those of the forest villagers—graze their cattle in the unclosed portions of the Reserved forests and in Protected forests on payment of fees. The scale of fees should be very moderate and should be reported to Government for sanction by the Forest Settlement Officer after consulting the Collector and the Conservator of Forests. The Governor in Council concurs with the Collector in thinking that the grass and grazing on the old *gurcharan* lands included in forest should not be sold by auction by the Forest Department where such a course would unduly interfere with the sufficient supply of the requirements of the forest villagers in respect of grazing and grass for their cattle and for *ráb*. The area to be closed at any one time to grazing and for other purposes may as proposed be fixed at one-half in the case of the Tungár, Kámandurg, Takmak, Gowtara and Sasunavghar blocks, and at one-sixth in the other minor blocks. No closure is expedient in the small Protected forest area.

11. The order contained in paragraph 6 of Government Resolution No. 4719, dated the 10th ultimo, authorizing the removal without a permit of *kárvi* and thorns from the Protected forest area in the Bhivandi *táluka* may be held applicable to the Protected forest in the Bassein and other settled *tálukás* of Thána and Kolába. Government also see no objection to allowing the taking without a pass of *kárvi* from the unclosed portions of the Reserved forest by forest villagers. In Bassein and in all other settled Konkan *tálukás* thorns may be taken without a permit from Protected forest, and by inhabitants of forest villages from the unclosed parts of Reserved forest on passes for which however no fees should be charged. It is not the desire of the Forest Department or of Government to make any revenue out of thorns; but as is pointed out by the Forest Officers the total destruction of thorns would be very injurious to the forests and militate against the growth of young trees. It is necessary therefore to place some restriction on the cutting and removal of thorns and this can best be effected by allowing them only to be taken on passes which should be freely and without delay granted to applicants in such areas and to such extents as may seem advisable to the Divisional Forest Officers.

12. The orders contained in Government Resolution No. 4719, dated the 10th ultimo, concerning the taking of leaves from teak trees and in paragraph 15 of Government Resolution No. 3890, dated 14th May 1885, regarding *palas* leaves apply to all settled Konkan *tálukás*. The same privileges in respect of all minor forest products as have been granted in the Kalyán and Bhivandi *tálukás* may be accorded in the Bassien *táluka*, only *shikakái*, *hirda* nuts, *behedás*, *mowra*, and the leaves of the *ápta* and *tembhurni* being reserved to Government. The privilege in respect of the removal of earth and stone from the Government forests sanctioned in paragraph 7 of Government Resolution No. 4719 of June 10th, 1885, may be extended to all settled *tálukás* in Thána and Kolába.

13. As regards the collection of materials for *ráb* the same privileges may be allowed in Protected forest as have been given in the Bhivandi *táluka*. All trees save teak, blackwood, sandalwood and fruit trees may be lopped, the leading shoot being kept intact, subject to regulation as to the size of the branches to be cut which may be decided by the Divisional Forest Officer with the assent of the Collector. In the Reserved forest generally the same privileges as those allowed in Bhivandi and Kalyán may be granted, *i. e.*, the forest villagers may take free of charge for their own use from the unclosed portions of the reserved forest (and with the permission of the Divisional Forest Officer in the closed portions also) grass, reeds, leaves (other than *tembhurni* and *ápta*), the 10 classes of shrubs, and generally all brushwood of no value for any other purpose. The scheme proposed for the Kalyán *táluka* by Mr. Wilkins under which in each forest block fellings will be made in one or more compartments yearly and the villagers will be allowed in that year to lop all the trees in such compartments and to take all the twigs, branches and small boughs should also be introduced in Bassein. It will give material relief to the villagers, considerably increase the supply of stuff for *ráb*, and can be carried out pending the preparation of a working plan for the forests when the cuttings will be conducted in a more methodical and scientific manner. When a working plan is elaborated similar privileges may be allowed in the compartments or areas where fellings are made in the year. The privileges thus mentioned will in the opinion of the Forest Settlement Officer suffice in the case of the 33 villages or parts of villages forming the Tungár, Kámandurg, Takmak, Gowtara, and Sasunavghar blocks, but Mr. Lawrence considers that in the 13 villages or parts of villages named by him in paragraph 47 and marginally noted it will be advisable to grant more extensive privileges in regard to *ráb* in the Reserved forest area. In these 13 villages the area of *varkas* land is stated to be small, and the villagers must draw mainly on the forests for their *ráb* supply. He proposes therefore that the cultivators in these villages or parts of villages should be permitted to take for *ráb* the branches, not being the leading shoots or above a

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|---|---|
| Náringi. | Shirgaon. |
| Virár. | Chandansár. |
| Nilemore. | Dahisar. |
| Achole. | Chimane. |
| Dhániv. | Hedád. |
| Pelhár (west part). | Khánivde. |
| Kanher ( do. ). | |

certain size, of all trees other than teak, blackwood, sandalwood and fruit trees in one-third of the forest area of each village or part of a village. This concession he contends will not cause much injury to the forest which in these 13 villages or parts of villages consists chiefly, it is stated, of teak. The Collector apparently approves of the proposal though remarking that "it is precisely there that we want to encourage a growth of brushwood," but observes that "the cutting of *tákál* will have to be carefully supervised." Mr. Wilkins is strongly opposed to the proposal stating that the common varieties of trees are very valuable for many purposes and that as they have to a great extent been destroyed in the forest lands of these villages it is the more necessary now carefully to tend them and re-stock the forests with them. The Conservator of Forests is also opposed to the measure. The Commissioner, N. D., would go much further than Mr. Lawrence suggests and would disforest the whole forest area in these 13 villages and parts of villages on the grounds principally that it was originally *gurcharan* and that the teak could be as well looked after by the Land Revenue as by the Forest Department. The course recommended by the Commissioner is however not either desirable or necessary. His proposal would involve the disforestment of some 4,725 acres of land now in forest, of which the due conservancy by the Forest Department is clearly needed. The Forest Settlement Officer, it may also be observed, has proposed to disforest 1,675 acres of land in these villages now entered as forest, thus largely adding to the area open for *ráb* purposes. The retention in these villages as forest of the land which Mr. Lawrence considers should be kept is distinctly advisable, but in the circumstances the Governor in Council is of opinion that the concession advocated by that Officer in regard of *ráb* privileges should be allowed. It will not, it may be trusted, prove as injurious to the forests as is anticipated by the Forest Officers who it may be observed seem to have overlooked the fact that the extended privilege is only to be granted over one-third of the forest area of the villages in question.

14. In the matter of collecting dead-wood for fuel the same privileges should be permitted in Bassein as in Kalyán and Bhivandi. The inhabitants of forest villages may collect dead-wood for their own use in the Protected forests and unclosed portions of the Reserved forests, and with the permission of the Divisional Forest Officer in the closed portions also of the Reserved forest. The wild tribes may enjoy the same privileges in Bassein as have been accorded in Kalyán. No objection exists, or has apparently been raised, to the taking by them of wood of the common descriptions for the construction of or repairs to their huts. The complaint made by Mr. Atkins in his report on the Kalyán *táluka* forest settlement regarding the injury to the forests and the loss to Government caused by the wild tribes acting as the agents or servants of professional dealers and thus abusing the privileges granted to them for a special purpose is repeated by Mr. Lawrence in his report on the Bassein *táluka* settlement, when he writes that "traders employ the wild tribes to collect wood and sell it to them outside the forests whence they export it to Bombay and bring for these purposes gangs of these tribes from other *tálukás*." Mr. Lawrence suggests as possible remedies that the privilege of collecting dead-wood for sale should be given only to the members of the wild tribes actually resident in the *táluka* who should be given distinguishing passes; that the wild tribes generally should be allowed to collect fuel in the 5 large blocks, the wild tribes people resident in the villages to which the smaller blocks pertain being also allowed to collect firewood in the latter blocks; and that "the privilege of sale might be limited to certain bázárs and bunders, and a provision made that such wood when sold for exportation from the *taluka* should be liable to a transit duty." As regards the last-mentioned suggestion the opinion is desirable of the Remembrancer of Legal Affairs to whom should be forwarded copy of paragraphs 37 and 38 of Mr. Lawrence's report and of paragraph 9 of the Commissioner's letter. The imposition of some fee is if practicable clearly expedient as otherwise boat-loads and wagon-loads of firewood can be carried away from the Government forests without payment of any sort to the State for property belonging to it. In the meantime it may be ruled that the smaller forest blocks where the dead-wood supply is only sufficient to meet the wants of the inhabitants of the adjacent forest villages should be closed to dealers and the forest tribes of other parts of the *táluka* or of other *tálukás*. As to the other remedial measures to be adopted to prevent the abuse of the privilege of collecting wood for sale hitherto allowed to the wild tribes Government will await the report of the Conference which has been directed to consider and advise on the subject.

15. Until it is finally decided on the reports of the Forest Settlement Officers what lands are to be converted from Protected into Reserved forests in the *tálukás* still unsettled it is not advisable to formally grant in those *tálukás* all the concessions in respect of lopping of trees for *ráb* given in the settled *tálukás* as the subsequent inevitable revocation of some of the privileges accorded in lands now in Protected forest but hereafter to be placed in Reserved forest would lead to renewed outcry against restrictions imposed by forest conservancy. If however in the case of *tálukás* still unsettled the Forest Settlement Officer can suggest and the Collector approves a reduction in the number of reserved trees, excluding from them *ain, dhávda, nána* and *bonda*, and the allowance of other privileges such as are likely to be granted in areas which the Forest Settlement Officer expects to propose should be retained in Protected forests, and if he can meet any obvious insufficiency in the supply of *ráb* materials by permitting such privileges as Government have allowed on cause shown in Reserved forests in some settled *tálukás*, he can submit his proposals in a

short report in anticipation of the detailed settlement reports, and his recommendations will receive all due consideration.

J. NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Forest Settlement Officer, Thána (with the maps and with extract paragraph 7 of the letter of the Conservator of Forests, N. C., No. 1400, dated 19th June 1885),
The Conservator of Forests, N. C.,
The Remembrancer of Legal Affairs (with copy of parapraphs 37 and 38 of Mr. Lawrence's report No. 77, dated 1st April 1885, and paragraph 9 of the letter of the Commissioner, N. D., No. 2319, dated 27th June 1885),
The Commissioner, S. D.,
The Collector of Kolába,
The Conservator of Forests, S. C.,
The Forest Settlement Officer, Kolába,
The Director of Agriculture,
The Editors' Table, Bombay,
The Branch Editors' Table, Poona, care of the City Magistrate, Poona.
The Government of India (by letter).

*Forests : Thána.*

No. 5880.

REVENUE DEPARTMENT.

Bombay Castle, 20th July 1885.

Letter from the Acting Collector of Thána, No. 2400, dated 13th May 1885—Bringing to the notice of Government some points connected with the forest administration of the district on which it has been found impossible to carry out the order of Government fully; making some suggestions for the improvement of the system of supplying wood and other forest produce to the residents of the District; and forwarding correspondence between himself and the Divisional Forest Officers, Northern and Southern Thána, on the subject.

Memorandum from the Conservator of Forests, N. C., No. 932, dated 27th May 1885—Making remarks.

Letter from the Commissioner, N. D., No. 1953, dated 30th May 1885—Submitting the above with his remarks.

RESOLUTION.—These reports explain what was before not quite intelligible to Government, *viz.*, why the settlements of forest questions sanctioned in a series of Resolutions ranging from that on the Thána Forest Conference issued in May 1883 to that on the Kalyán *táluka* Forest Settlement published last May should have had no effect in adjusting administrative difficulties. It now appears that great delay has occurred in accurately demarcating and making known to the people the forest areas and the precise nature of the privileges accorded by Government. Until this is done and the orders and regulations applicable locally are fully understood there must be confusion and uncertainty. The delay which has happened is much to be regretted and all the responsible officers should be stimulated to use the utmost possible despatch in carrying out the instructions of Government and making the people concerned acquainted with those orders.

2. The series of Resolutions above referred to, and the reports of the Thána Forest Conferences show that in that district great difficulties have beset the enforcement of measures of forest conservancy owing to neglect of orders in previous years. Abuses had become so habitual that it was impossible to proceed other than tentatively, by trying various expedients for supplying wants in a legitimate instead of an illicit way. Some of these experiments have succeeded, others have failed. Government have not insisted on hard and fast lines, and have been ready to modify and relax their measures on sufficient cause being shown, with the result that there is little to change in or add to the latest orders on a forest settlement (that of the Kalyán *táluka*) in order to remove the administrative difficulties explained by Mr. Loch. In a question of so much difficulty and obscurity it is impossible to select at once the best and most appropriate measures: they must be gradually arrived at by experiment and observation. But the objects which the Governor in Council has in view are—

1*st*, that the Government regulations in respect of forests, as finally settled should whilst preserving the public interests, be equitable and liberal in dealing with private interests, and,

2*nd*, that these regulations when finally settled should be firmly enforced.

3. With regard to Mr. Loch's first proposal as noted below the Governor in Council observes that there must be confusion in carrying out regulations whilst everything is shifting. Until forest areas are finally settled and demarcated—a work which should be completed as speedily as possible—the executive officers must make the best arrangements feasible, only taking care not to resort to extreme measures against trespassers who may transgress orders in ignorance. Government concur with the Commissioner in considering it undesirable to adopt Mr. Loch's suggestion that in the unsettled *tálukás* and the *tálukás* where settlements have been sanctioned but not yet applied "the cultivators should be allowed to cut materials for *ráb* in the village *gurcharans* in the old way," which would involve a return to disorder and confusion. Nor is there any real need for the adoption of so retrograde a measure In their Resolution on the Kalyán settlement Government have authorized the lopping of *ain*, *dhávda* and *bonda* trees in the protected forest areas of the settled *tálukás*. To these there may now be added *nina*. These four varieties of trees are those most used and most useful for *ráb* purposes, and the permission accorded to lop them in the Protected forest lands will, as stated by the Commissioner, reduce to a minimum the *ráb* difficulty. Where settlements though sanctioned have not yet been introduced pains should be taken to make the orders generally known, and the people will then have no reason to transgress them as their wants will be amply supplied.

4. It is necessary now formally to notify under Clause (*a*) of Section 29 of the Indian Forest Act the trees to be reserved in Protected forests in each *táluka* of which the settlement has been made. The Forest Settlement Officer Mr. Atkins should be requested to

submit at once in consultation with the Collector and the Divisional Forest Officers a list for each *táluka* of the varieties of trees proposed to be reserved in the protected forest of that *táluka*.

5. The proposed reduction in the prices of timber and other forest produce including bamboos is sanctioned as a temporary measure, but the benefit of the reduced rates need not be allowed to wood-dealers or purchasers for export.

6. The Governor in Council approves of Mr. Loch's proposal that "steps should be taken to close against the traders those forests where the supply of dead-wood is only sufficient for the wants of the local community," as also of the suggestion that fellings should be substituted for depôts. It has been made quite clear in what manner and to what extent Government desire that the wants of the people for agricultural implements and building materials should be supplied, and the local Land Revenue and Forest officers should take the requisite action to carry out the wishes of Government. It is the special duty of the officers in charge of *tálukás* and of the Collector to bring shortcomings in the supply to notice.

7. The wild tribes are already permitted to obtain from the forests free of charge such wood of the ordinary sorts as they need for the construction and repair of their dwellings and no further orders on the subject are needed.

8. Nor does it seem necessary here to issue any additional instructions on the question of grazing and grass-cutting in the Government forests. The orders of Government on this point are explicit and liberal and the Commissioner does not press for any modification of them. Inhabitants of non-forest villages must pay for grazing, but the fees charged should be very low at first.

9. Government entirely agree in the views expressed by Mr. Loch in paragraph 14 of his letter which are in accordance with the orders already issued by them in the Resolutions No. 2638, dated March 27th, 1884, and No. 4120, dated May 21st, 1885.

J. NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
The Conservator of Forests, N. C.,
The Forest Settlement Officer, Thána,
The Editors' Table, Bombay,
The Editors' Table, Poona, care of the City Magistrate, Poona.

## CIRCULAR.

In order that no doubts may exist as to the privileges, &c., which Government have, from time to time, conceded in the Reserved and Protected forests of the *tálukás* of this district, in which forest demarcation and settlement has been completed and sanctioned, it is desirable to collate, and republish in a connected form, the standing regulations on the subject:—

### Táluka Sálsette.

1. The proportion of the Reserved forests of Sálsette which may be absolutely closed at any one time, has been fixed as follows:—

| | |
|---|---|
| Kándivli, Borivli, Shimpavli, (Bábul reserves) | The whole. |
| Klerábád, Yeur | One-half. |
| Ghodbandar ... | Two-fifths. |
| All other villages ... | One-third. |

2. The proportion of the Protected forest area, which may be closed in Sálsette, at any one time, has not yet been fixed.

### *Privileges in Reserved and Protected Forest Area.*

3. Most of the privileges detailed below were conceded to the inhabitants of the forest villages of the Panvel *táluka* by Government Resolution No. 7579 of the 10th October 1883, and were extended to the inhabitants of the Sálsette forest villages by Government Resolution No. 2988 of the 9th April 1884. In the case of additional privileges subsequently granted, the authority for each is quoted below.

### *Ra'b* Privileges.

#### (*a*) *In Reserved Forest Areas.*

4. Inhabitants of forest villages may take, free of charge, for their own use, from the unclosed portions, and with the permission of the Divisional Forest Officer, from the closed portions also, of the Reserved forests, grass, reeds, and leaves (other than *tembhurni* and *ápta*).

5. They may also cut for *ráb* the 13 varieties of shrubs noted in the margin, and generally all brushwood of no value for any other purpose. But no trees of any description are to be lopped for *ráb* in the Reserved forests.

1 *korinda*, 2 *ukshi*, 3 *bábali*, 4 *kuda*, 5 *kála kuda*, 6 *gometi*, 7 *kevni*, 8 *torni*, 9 *bhurjámbhul*, 10 *bhokar*, 11 *atharun*, 12 *kude*, 13 *mástodi*.

6. The Reserved forest blocks[1] (when finally demarcated) will be divided into a number of compartments, of which one or more will be cleared yearly, the timber being felled for sale and then closed for a period of years. The inhabitants of forest villages in which the block is situated, and of adjacent villages in whose forest blocks no cuttings are in that year being effected, will be permitted to cut and remove not only the brushwood, &c. in the compartment in which the trees are being felled, but also both before and after the trees have been felled to lop and take all the twigs, branches, and small boughs not required by the Forest Department, for manufacture into fuel.[2] Care will be taken to give the villagers timely notice beforehand when and where the cuttings will take place, and the date of the cuttings will be arranged as far as possible, so that it shall coincide with the time for preparing and burning *ráb*.

#### (*b*) *In Protected Forest Areas.*

7. Inhabitants of villages in which there are Protected forests, may, in addition to cutting grass, reeds, leaves, except *tembhurni* and *ápta* and brushwood as above, may lop for *ráb* in the unclosed portion of such forests, the side branches, but not the leading shoots, of all but the trees marginally noted. The restrictions imposed on the lopping of *ain*, *dhávda*, *bonda* and *nánu* by former orders have now been removed by Government Resolution No. 3890 of 14th May 1885, paragraph 13, and Government Resolution No. 5880 of 20th July 1885, paragraph 3, in all the settled *tálukás*. Large branches for firewood must not be cut under cover of the above privileges. (Government Resolution No. 5251 of 1st July 1884, paragraph 17).

1 teak, 2 blackwood, 3 bamboo, 4 *hed*, 5 *kalam*, 6 *asána*, 7 *bibla*, 8 *khair*, 9 *shivan*, 10 *tivas*, 11 *koshimb*, 12 *jámbhu*, 13 *kinjal*, 14 *kinai*, 15 *humbh*, 16 *bábhul*, 17 *moho*, 18 mango, 19 tamarind, 20 *jámbhul*, 21 *phanas*, 22 *tembhurni*, 23 *palas*, 24 *ápta*.

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[1] Government Resolution No. 3890 of 14th May 1885, para. 12.

[2] All boughs exceeding three inches in circumference are considered as material for fuel by the Forest Department.

8. These privileges both as regards Reserved and Protected forests, have been extended[1] to non-resident holders of land in each forest village, and they may take from the forest lands of the village materials for *ráb* for their land situated in the village, but not for any land they may hold in any other village.

9. But the privileges thus accorded to the inhabitants of forest villages, and to non-resident holders of land within the limits of forest villages are not to be shared by the inhabitants of non-forest villages. If the latter are unable to obtain from the *varkas* lands comprised in their holdings, or from the *gurcharan* lands, if any, in their villages in which lopping for *ráb* is allowed under certain restrictions, a sufficient supply of materials for *ráb*, they must procure what they require by purchase from the Forest Department or private dealers.

### *Firewood.*

10. The inhabitants of villages, within whose boundaries any forests are included, may remove for fuel any dead-wood they may find in the Protected and open portions of the Reserved forests, for *bonâ fide* home consumption, without payment of any fees. Provided that no *khair*[2] is to be removed as dead-wood for fuel, and that no logs of teak, blackwood or *tivas* are to be split up and removed as firewood.[3] No firewood may be removed for sale.[4] The same privilege may also be exercised in the closed portions of the Reserved forests, provided permission is sought and obtained from the Divisional Forest Officer.

11. The above privilege is to be enjoyed only by the inhabitants of the villages within which the forest lands are situated. Inhabitants of villages, in which there are no forest lands, must obtain any firewood they require beyond what their own lands can supply by purchase from the Forest Department, or from private wood dealers. When cuttings are being made in the Government forests, due and timely notice will be given of the fact to enable the inhabitants of non-forest villages to buy thus any wood which they may require for fuel or other purposes. It is the duty of the Revenue Officers to bring any shortcomings in the supply to notice.[5]

### *Wild Fruits and minor Forest Produce.*

*Hirda nuts, shikekái pods, mowra flowers, ápta leaves, tembhurni leaves, behada nuts.*

12. Forest produce of the kinds specified in the margin is strictly reserved to Government in all forests.

13. All other wild fruits and minor produce may be collected free both in Reserved and Protected forests by the inhabitants of the villages in which the forests are situated. This privilege may ordinarily be exercised in the closed as well as the unclosed portions of the Reserved forests.

14. Under the authority quoted in the margin, the inhabitants of forest villages may also collect free, for their own use, *palas* leaves in the Protected and open Reserved forests. This removes the restriction on the collection of *palas* leaves imposed by Government Resolution No. 2988 of the 9th April 1884, and the concession applies to all the settled *tálukás*. But this concession will not prevent the Forest officers from making arrangements for the departmental collection and sale of *palas* leaves.

Government Resolution No. 3890 of 14th May 1885, para. 15.
Government Resolution No. 5919 of 22nd July 1885, para. 12.

15. Similarly, under the authority, marginally quoted, the inhabitants of forest villages may take free of charge, for their own use, leaves from teak trees growing in Protected forests and in occupied numbers and from the trees felled within the area of Reserved forests that may each year be set apart for felling operations in accordance with the orders passed in para. 12 of Government Resolution No. 3890 of 14th May 1885.[6] This concession applies to all the settled *tálukás*, but is liable to be withdrawn if it be found at any time that on pretence of merely plucking the leaves, the branches are lopped and injury is caused to the trees.

Government Resolution No. 4719 of 10th June 1885, para. 5.
Government Resolution No. 5919 of 22nd July 1885, para. 12.

### *Kárvi and Thorns.*

16. Under the authority, marginally quoted, the inhabitants of forest villages may remove both thorns and *kárvi* from Protected forests free, and without passes. *Kárvi* May also be removed free and without passes from the unclosed portions of Reserved forests by forest villagers.

Government Resolution No. 5919 of 10th June 1885, para. 11.

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1 Government Resolution No. 2831 of 8th April 1885, para. 7.
2 *Vide* Government Resolution No. 2638 of 27th March 1884, para. 5.
3 *Vide* Government Resolution No. 5251 of 1st July 1884, para. 5.
4 *Vide* para. 43 below.
5 Para. 6, Government Resolution No. 5880 of 20th July 1885.
6 *See* above para. 6.

17. But as it is necessary that some restriction should be placed on the removal of thorns from the Reserved forests to prevent injury to young trees, thorns may be removed from unclosed portions of the Reserved forests on passes only. No fees will, however, be charged for such passes, and they should be granted freely and without delay to applicants in such areas and to such extent as may seem advisable to the Divisional Forest Officers.

18. The above orders supersede the conditions as to removal of thorns imposed by Government Resolution No. 7579 of 10th October 1883, para. 13, and Government Resolution No. 4719 of 10th June 1885, para. 6, and apply to all the settled Konkan *tálukás*.

*Earth and Stones.*

19. Under the authority, marginally quoted, inhabitants of forest villages may take earth and stones free of charge, for purely agricultural purposes, from Protected forests, and with the previous permission of the round guard in charge, from the unclosed portions of Reserved forests.

Government Resolution No. 4719, dated 10th June 1885, para. 7.
Government Resolution No. 5919 of 22nd July 1885, para. 12.

TÁLUKA BHIVANDI.

20. The proportion of the Reserved forest area of the Bhivandi *táluka*, which may be closed at any given time, has been fixed as follows:—

| Name of Reserved Forest Block. | Maximum area to be closed. |
|---|---|
| Sonále Pogaon ... ... ... | ... One-fifth. |
| Kháling Budruk (Kárvi Hill) ... | ... One-fourth. |
| Láp Khurd ... ... ... ... | ... One-fifth. |
| Eastern block (Kelhe Nevále) ... | ... One-third. |
| Wadpe Khind (north and south) ... | ... One-fifth. |
| Gotávde (west side) ... ... | ... One-half. |
| ,, (east side)... ... ... | ... One-fourth. |
| Kuhe... ... ... ... ... | ... One-third. |
| Konde ... ... ... ... | ... One-fifth. |
| Eksal ... ... ... ... | ... One-half. |
| Shaitani river block ... ... | ... One-half. |

21. The proportion of each Protected forest block, which may be closed at any given time, has been fixed at not more than one-fifth and not less than one-tenth, the exact fraction having to be determined by the Collector and Divisional Forest Officer in consultation. It will be for the Forest Officers to decide in each instance the period for which the compartment should be absolutely closed.

*Privileges in Reserved Forests.*

22. In Reserved forests the inhabitants of the forest villages of Bhivandi are to enjoy the same privileges as the people of Sálsette, as regards materials for *ráb*, firewood, wild fruits, and minor forest produce. They are also subject to the same restrictions.

Government Resolution No. 5251 of 1st July 1884, para. 12.

23. In Protected forests also, except as regards *ráb*, the inhabitants of the forest villages of Bhivandi have the same privileges as those of Sálsette.

But inasmuch as the proportion of *varkas* to *kharif* in Bhivandi is comparatively small, and much of the former only produces grass, and as the population is numerous, and the forest area considerable, special concessions have been considered necessary to ensure a sufficient supply of *ráb* material. Therefore the inhabitants of forest villages may cut for *ráb* purposes in the unclosed Protected forest of this *táluka*, the branches of all but the trees specified in the margin.

Teak.
Blackwood.
Sandalwood and all Fruit trees.

24. The branches of saplings and young trees may also, if necessary, be lopped, but in no case must the leading shoot be injured, and large branches to serve as firewood must not be cut under cover of this privilege.[1]

TA'LUKA KARJAT.

25. The proportion of the Reserved forest area which may be closed in the Karjat *táluka* at any given time has been fixed as follows:—

Government Resolution No. 8018 of 10th October 1884.

| | |
|---|---|
| All the forests along the Ghats ... ... | One-half. |
| The Palasdari Taloli block ... ... | One-quarter. |
| The Kaloti Rayati block ... ... | One-fifth. |
| The Vadgaon Taloli block ... ... ... | One-quarter. |
| The Mil Kátrung block ... ... ... | One-quarter. |
| The Sángde block ... ... ... ... | One-third. |
| The detached blocks north of the Chilhár river ... ... ... ... ... | One-half. |

[1] *Vide* footnote to para. 6.

26. The proportion of the Protected forest area which may be similarly closed is as under :—

| | | | |
|---|---|---|---|
| The Mátherán forest | ... | ... | One-half. |
| Other Protected forests. | ... | ... | From one-tenth to one-fifth, the exact fraction being determined as in Bhivandi by the Collector and Divisional Forest Officer in consultation. |

*Privileges in Reserved Forests.*

27. The inhabitants of the forest villages of Karjat are to enjoy precisely the same privileges in Reserved forests as have been granted to the people of Sálsette, and are subjected to the same restrictions.

*Privileges in Protected Forests.*

28. The inhabitants of the forest villages of Karjat have also the same privileges in Protected forests, except those of the Mátherán plateau, as the people of Sálsette; but it has not been considered necessary to grant them the more extended privileges in the matter of lopping trees for *ráb* in Protected forests which have been given to the inhabitants of Bhivandi. They may not, therefore, lop for *ráb* the 24 kinds of trees enumerated in para. 7.

29. In the Protected forests of the Mátherán plateau no privileges have been conceded to the inhabitants of the villages in which they are situated, except that of collecting dead-wood and brushwood for domestic use and for sale at the depôt under the Superintendent. No trees are to be cut down to be converted into firewood (*vide* Government Resolution No. 8018 of 10th October 1884, para. 12).

TÁLUKA KALYÁN.

Government Resolution No. 3890 of 14th May 1885.

30. The proportion of the Reserved forest area which may be absolutely closed at any one time in the Kalyán *táluka* has been fixed as follows :—

Chavre, Chon, Páchon, Vángni, Chargaon.

31. In the 5 villages noted in the margin, the whole of Reserved forest may be closed if the Divisional Forest Officer considers it expedient.

32. In other villages the maximum to be closed in each village is not to exceed one-half, except in special cases when the Collector in consultation with the Divisional Forest Officer may assent to the closure of a larger proportion.

33. No part of the Pretected forest of Kalyán is to be closed. The whole area will be left open for the exercise of the privileges sanctioned.

*Privileges in Reserved Forests.*

34. The inhabitants of the forest villages in Kalyán are to enjoy all the privileges in Reserved forests which have been granted to the inhabitants of Sálsette, and are subject to the same restrictions.

*Privileges in Protected Forests.*

35. Except as regards *ráb* the inhabitants of the forest villages of Kalyán have the same privileges in Protected forests as those of Sálsette, Bhivandi and Karjat. They may, however, lop for *ráb* the side branches, but not the leading shoots, of all trees growing in Protected forest except those marginally noted. As elsewhere the restriction formerly imposed on lopping the branches of *ain, dhávda, bonda* and *nána* has been removed.

Teak, blackwood, *tivas*, mango, *khair, kalam, bibla, asána, koshimb, hed.*

TA'LUKA BASSEIN.

Government Resolution No. 5919 of 22nd July 1885.

36. The proportion of the Reserved forest area, which may be closed at any one time in the Bassein *táluka* is as follows :—

| | | | | |
|---|---|---|---|---|
| Tungár, Kámandurg, Takmak, Gávtare, and Sasunavghar | ... | | | One-half. |
| In all other Reserved forest blocks | ... | ... | ... | One-sixth. |

37. No part of the Protected forest area is to be closed, the whole being left open for the exercise of the privileges sanctioned.

*Privileges in Reserved Forests.*

38. The inhabitants of the forest villages of Bassein are to enjoy all the privileges in Reserved forests which have been granted to the people of Sálsette, and are subject to the same restrictions.

Nâringi, Virár, Nilemore, Achole, Dhániv, Pehár (west part), Kanher (west part), Shirgaon, Chandansár, Dahisar, Chimane, Hedád and Khánivde.

39. In addition the inhabitants of the 13 villages, noted in the margin, are permitted in consequence of the small area of *varkas* land available, to take for *rán* the branches not being the leading shoots or above a certain size,[1] of all trees other than teak, blackwood, sandalwood and fruit-trees, in one-third of the Reserved forest area of each village or part of a village.

40. The limits within which this privilege may be exercised, will be fixed from time to time by the Divisional Forest Officer.

*Privileges in Protected Forests.*

41. They may similarly enjoy all the privileges in Protected forests which have been granted in the other settled *tálukás*, and may, in addition, exercise the extended privileges in respect of *rán* granted to the forest villagers of the Bhivandi *táluka*, that is, they may lop for *rán* all trees in Protected forests except teak, blackwood, sandalwood, and fruit trees, the leading shoots being kept intact, and subject to any regulation as to the size of the branches to be cut, which may be decided by the Divisional Forest Officer with the assent of the Collector.[2]

FEES ON FIREWOOD AND BAMBOOS THROUGHOUT THE THÁNA DISTRICT.

42. Under the authority of Government Resolution No. 5880 of the 20th July 1885, para. 5, the rates for firewood and bamboos sanctioned by Government on the recommendation of the Thána Conference of 1883 are now reduced to the scale in force prior to their enhancement in that year. The benefit of the reduced rates is, however, only to be enjoyed by persons residing in the *táluka* taking the material under the permit system for their own *boná fide* consumption for agricultural purposes, or for a local industry. A list of the reduced rates is appended to this circular for general information. Dealers are not entitled to the benefit of the change, but must obtain their supplies at rates to be arranged between them and the officers of the Forest Department on ordinary trade principles.

PRIVILEGES TO WILD TRIBES.

Government Resolution No 7579 of 10th October 1883.

43. The Thákurs, Kátkaris and Várlis and other wild tribes have, in all *tálukás* except Sálsette, all the privileges accorded to the inhabitants of forest villages, and described above. In addition, they may cut grass, and collect and remove dead-wood for *sale* free of charge in the Protected and unclosed portions of the Reserved forests, and in the closed portions also with the permission previously sought and obtained of the Divisional Forest Officer. This privilege will be revoked if it is found to be abused by the destruction of wood one season to ensure a large supply of dead-wood in the next.

44. The above privileges originally granted to the wild tribes of Panvel have been since extended to those of Bhivandi [3], Karjat [4], Kalyán [5], and Bassein. [6]

45. Under the authority of Government Resolution No. 3890 of 14th May 1885, para. 15, wild tribes may also collect, free of charge, for their own use and for sale, *palas* leaves in the Protected and open Reserved forests.

Government Resolution No. 5919 of 22nd July 1885, para. 14.
Government Resolution No. 5880 of 20th July 1885, para. 7.

46. They may also, under the authorities quoted in the margin, take from the forests, free of charge, wood of the common descriptions for the construction of or repairs to their huts.

47. It is also the desire of Government that the services of the wild tribes should be utilised as much as possible by the Forest Department in the collection of the reserved minor forest products such as *hirdás, mowra,* &c.

48. In the Sálsette *táluka* the wild tribes have the same privileges as have been granted to other inhabitants of forest villages in that *táluka*, but have not the additional privileges granted to their brethren in the remaining settled *tálukás*.

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1 *Vide* footnote to para. 6.
2 The limit of three inches circumference, as stated in the footnote to para. 6, has been adopted with reference to this privilege.
3 Government Resolution No. 5251 of 1st July 1884, para. 14.
4 Government Resolution No. 8018 of 10th October 1884, para. 16.
5 Government Resolution No. 3890 of 14th May 1885, para. 16.
6 Government Resolution No. 5919 of 22nd July 1885, para. 14.

*Grazing.*

49. In the Resolutions of Government passed on the forest settlement reports of Sálsette, Bhivandi, Karjat, Kalyán and Bassein, special orders have been given as regards the exercise of grazing privileges in the Government forests. These orders are now modified by the general directions contained in Government Resolution No. 7467 of the 15th September 1885, regarding which detailed orders will be given hereafter.

NOTE.—It is to be understood that the privileges above detailed are now in force and may be exercised from the present date in all the settled *tálukás* abovementioned.

G. W. VIDAL,
Acting Collector.

*30th October 1885.*

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*LIST of Rates to be charged for Forest Produce removed under permits from the Government Forests by Villagers for their own bonâ fide use or for some local industry in the Thána District.*

| Description of Forest Produce. | Large Cart | Small Cart. | Man's Head-load. | Woman's Head-load. | Child's Head-load. | Per 100. | Per single Bámboo. | |
|---|---|---|---|---|---|---|---|---|
| Firewood ... ... | 1 0 0 | 0 8 0 | 0 0 9 | 0 0 6 | 0 0 3 | ... | ... | |
| *Bundhis* (Bamboo) ... | 1 0 0 | 0 8 0 | 0 0 6 | 0 0 6 | 0 0 6 | ... | ... | Head-load of *bundhis* in Sálsette being 2 annas. |
| *Mánvel* do. .. | For Burds | | 0 2 6 | 0 2 6 | 0 2 6 | ... | ... | |
| | „ Mhárs | | 0 1 0 | 0 1 0 | 0 1 0 | ... | ... | |
| *Padhai* do. ... | ... | ... | ... | ... | ... | 5 0 0 | 0 0 9 | |
| *Jhita* do. ... | 0 6 0 | 0 3 0 | ... | ... | ... | ... | ... | |
| *Kárvi* ... ... ... | 0 8 0 | 0 4 0 | 0 0 6 | 0 0 6 | 0 0 6 | ... | ... | |

G. W. VIDAL,
Acting Collector.

*Thána, 30th October 1885.*

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*Trees: Kolába*

No. 9044.

REVENUE DEPARTMENT.

Bombay Castle, 9th November 1885.

Memorandum from the Commissioner, S. D., No. 1694, dated 1st July 1885—Submitting for orders a letter No. 1956, dated 16th May 1885, from the Collector of Kolába, who forwards certain correspondence regarding reserved trees on occupied survey numbers in the Panvel *táluka;* states that Mr. Mulock, when Collector of Thána, acting on the opinion of the Forest Settlement Officer, gave orders forbidding the cutting by occupants of fourteen kinds of trees basing his order chiefly on an order issued by Colonel Francis to the *Mahálkarí* of Khálápur on 1st June 1855; and requests instructions whether in the circumstances explained this order of Colonel Francis is to be acted on at the risk of an action in a Civil Court: the Commissioner observing as follows:—

"2. The Commissioner, Southern Division, has read all the papers carefully and he is of opinion that the order issued by Mr. Mulock, Acting Collector of Thána, in 1882, cannot stand and must be cancelled.

"3. There is no clear evidence to show what particular kinds of trees besides teak and blackwood were intended to be reserved in occupied *varkas* lands by Colonel Francis at the time of his settlement of the Panvel *táluka*, and the safest if not the only course under the circumstances would be to restrict the rights of Government to the trees actually specified in Section 40 of the Land Revenue Code."

Letter from the Collector of Kolába, No. 3953, dated 21st September 1885.

Memorandum from the Commissioner, S. D., No. 2865, dated 25th September 1885.

RESOLUTION.—There was it seems a vague reservation of trees besides royalty trees in the notice sent by Captain Francis to the *Mámlatdár* of Panvel, but there is no clear evidence what the trees were. Having regard to the decision of the High Court in Pendse's case it seems expedient to limit the definition of reserved trees to those in Section 40 except in Sháhápur, Váda, Mokháda and Dahánu. The Commissioner's view may, therefore, be accepted, and should be acted on.

J. MONTEATH,
Under Secretary to Government.

To

The Commissioner, S. D.,
The Collector of Kolába (with the correspondence accompanying his letter No. 1956, dated 16th May 1885),
The Forest Settlement Officer, Kolába,
The Conservator of Forests, S. C.

*Trees : Question of the right to the trees growing on occupied varkas land in the Umbargaon Mahál of the Dahánu táluka in the Thána District.*

No. 2345.

REVENUE DEPARTMENT.

Bombay Castle, 25th March 1886.

Petition from Vináyak Bhikáji and others, inhabitants of Peta Umbargaon in the Dahánu *táluka* of the Thána District, dated 18th September 1885—Praying in the circumstances stated that Government will be pleased to order the restoration to the petitioners of the privilege of exercising and enjoying the rights of ownership over the trees growing in their *málki* numbers, of which they have been deprived since 1882, and to direct this petition to be referred to the Forest Commission for further enquiry into and final report on the grievances herein submitted for consideration and redress.

Memorandum from the Commissioner, N. D., No. 4388, dated 27th December 1885—Forwarding in reply to Government reference No. 8022, dated 3rd October 1885, one from the Collector of Thána; making remarks; and stating as follows :—

"5. Should Government see fit to adopt a different view to that expressed above, the Commissioner would beg very earnestly to suggest that a clear distinction should be recognised between trees on old *málki* numbers and those on *later varkas allotments* where the concession, if any, was made for a specific purpose, that of providing and maintaining a supply of wood *for ráb*."

Letter from the Survey and Settlement Commissioner, No. 153, dated 27th January 1886—Submitting his opinion on the question put in Government memorandum No. 8022, dated 3rd October 1885.

Memorandum from the Remembrancer of Legal Affairs, No. 311, dated 3rd March 1886.

RESOLUTION.—Copies of the Honourable Mr. Naylor's opinion should be forwarded to the Commissioner, N. D., and the Collector of Thána for information and guidance in supersession of Government Resolution No. 1573, dated 8th March 1882.

2. In accordance with this opinion the rules published in Government Notification No. 202, dated 9th January 1885, should not be held to apply to the occupied *varkas* lands in the villages comprised in the Umbargaon *peta* at the time of the introduction of the survey settlement, but these lands should be treated in respect of the trees growing on them under paragraph 1 of Section 40 of Bombay Act V. of 1879. It is observed that the Collector reported in 1868 that the right to trees in *málki* numbers in the Umbargaon *peta* which were settled in 1863-64 was disposed of under Ellis' rules. A notification should be published in the *Bombay Government Gazette* directing that the villages in question should be omitted from the list embodied in Government Notification No. 202, dated 9th January 1885.

3. The "later *varkas* allotments" in the villages above referred to have, it is presumed, been made subject to special conditions. The Commissioner, N. D., should be requested to report what these conditions are, or in case no such conditions have been imposed, to explain why he proposes to exclude these allotments from the operation of the present order.

4. The petitioners should be referred to the Collector of Thána for a reply.

J. MONTEATH,
Under Secretary to Government.

To

The Commissioner, N. D.,
The Survey and Settlement Commissioner,
The Collector of Thána,
The Conservator of Forests, N. C.
} With copies of the Honourable Mr. Naylor's opinion.
The Remembrancer of Legal Affairs,
G. W. Vidal, Esq., C. S., Chairman, Forest Commission.

NOTE.—The petitioners have been referred to the Collector of Thána for a reply to their petition.

*Forests: Permission granted to the lopping for rób purposes of nána, dhávda, ain and bonda trees in the Government —— in all the unsettled tálukás of the Thána District.*

No. 555.

REVENUE DEPARTMENT.

Bombay Castle, 23rd January 1886.

Memorandum from the Commissioner, N. D., No. 4196, dated 10th December 1885—Forwarding a letter No. 5592, dated 7th idem, from the Collector of Thána, who states that Government in their Resolutions marginally noted have conceded to the people the privilege of lopping 'ain,' 'dhávda,' 'bonda' and 'nána' trees for *táhál* in the unclosed Protected forest areas of the settled *tálukás* of the Thána and Kolába Districts; intimates that under Government Resolution No. 8783, dated 29th November 1883, the above trees were reserved against lopping in Protected forests generally and the restriction as regards these trees is consequently in force in all the *tálukás* in which forest demarcation and settlement have not yet been completed; makes remarks; and adds as follows:—

No. 3890 of 14th May 1885, on Demarcation and Settlement of Kalyán *táluka*.
No. 5880 of 20th July 1885, on Thána Forests.

> "10. I have therefore little hesitation in recommending that the privilege as regards these trees may be extended at once to the unsettled *tálukás* under a clear understanding that the privileges now granted are temporary and subject to such modification as may appear necessary at the time of final demarcation and settlement.
>
> "11. In a recent Resolution* on a petition from some of the inhabitants of Murbád complaining that the value of *táhál* cut by them in forest has been recovered from them, Government have directed me to make any concessions which may appear expedient under paragraph 15 of the Bassein Resolution above quoted. In this respect the case of the Murbád people is the same as that of the inhabitants of all the other unsettled *tálukás*, and I would therefore respectfully ask to be allowed to make the concessions as to the four trees specified above generally in all the unsettled *tálukás* before the next *rób* season begins. If this concession is made I anticipate little difficulty in being able to enforce the restrictions as regards the rest of the reserved trees which are less in demand for *rób* purposes."

*No. 7991 of 2nd October 1885.

the Commissioner stating that as Government are aware he has several times advocated this measure, *vide* paragraph 4 of his letter No. 1953, dated 30th May last.

Memorandum from the Conservator of Forests, N. C., No. 5334, dated 2nd January 1886—Submitting his remarks on the above; and stating as follows:—

> "9. If permission be given to lop *ain*, *bonda*, *nána* and *dhávda* trees it should be stipulated that the leading shoot of a tree is on no account to be touched, that no branch thicker than the wrist is to be cut, and that young seedlings or saplings, or shoots from old roots less than nine feet in height are not to be touched."

Letter from the Conservator of Forests, N. C., No. 5512, dated 14th January 1886.

Memorandum from the Collector of Thána, No. 158, dated 14th January 1886—Stating in reply to Government reference No. 98, dated 8th idem, that it is desirable to make the concession in all unsettled *tálukás* throughout the district; and making remarks.

Memorandum from the Commissioner, N. D., No. 176, dated 17th January 1886.

RESOLUTION.—On consideration of the facts mentioned the Governor in Council is pleased to direct that in those portions of the Thána District where the forest settlement remains to be effected *nána, dhávda, ain* and *bonda* trees in the Government forests may be lopped for *rób* as proposed by the Collector, subject to the restrictions mentioned by the Conservator of Forests in paragraph 9 of his memorandum No. 5334, dated 2nd instant, and on the distinct understanding of which full notice should be given to all persons concerned that the privilege thus accorded is liable to be limited or altogether withdrawn when the forest demarcation and settlement is carried out and is not to be regarded as fixed and permanent.

JOHN NUGENT,
Secretary to Government.

To

The Commissioner, N. D.,
The Collector of Thána,
J. DeC. Atkins, Esq., C.S., Forest Settlement Officer, Thán
E. Lawrence, Esq., C.S., Forest Settlement Officer, Thána,
The Conservator of Forests, N. C.,
The Chairman, Forest Commission.

## Rules issued by the Collector of Thá'na under Section 44 of the Bombay Land Revenue Code for the regulation of privileges in waste lands excluded from forests.

With reference to clause *(a)* of No. 2 of the foregoing rules* the Governor in Council is pleased to publish, for general information, the following rules made by the Collector of Thána, in exercise of the power conferred by Section 44 of the Bombay Land Revenue Code, 1879, for regulating the exercise of the privilege of cutting firewood and timber for domestic or agricultural purposes conceded, under the terms of the Survey Settlement extended to the villages formerly comprised in the Sanján and Kolvan *tálukás* of the Thána District named in the list annexed to the foregoing rules,* to the occupants of *varkas* land subject to the said Settlement and to their tenants (namely) :—

1. The said concession did not extend to teak, *tivas* or blackwood trees (which are hereinafter called "the excepted trees"), and persons exercising the privilege must not remove, destroy, lop or in any way injure any tree of any of those three descriptions.

2. The said concession did not extend to the removal of any tree or of any portion of a tree for the purposes of sale or trade, and persons exercising the privilege must do so only for their own *bonâ fide* domestic or agricultural purposes.

3. Persons exercising the privilege for the purpose of obtaining *rán* must not cut the leading shoot (*shenda*) of any tree which they lop for this purpose, nor touch young shoots or seedlings.

4. Persons entitled to exercise the privilege may, without previously obtaining permission, do any of the following things in any *varkas* land in their respective occupation, provided that the wood, &c., gathered or cut is for use within the limits of the village in which the gathering or cutting is made, (*viz.*) :—

(1) gather fallen dead-wood and, if that is insufficient, cut wood from any but the excepted trees, for firewood;

(2) cut wood from any but the excepted trees or bamboos for the purpose of making or repairing any agricultural implement;

(3) cut branches for *rán* from any but the excepted trees;

(4) cut thorny bushes or bamboos for hedges.

5. If any person entitled to exercise the privilege desires to cut wood from any but the excepted trees, or bamboos, in any *varkas* land in his occupation, for building purposes, whether the wood or bamboos are to be used within the limits of the same village in which they are cut or elsewhere:

and if any such person desires to do, in any *varkas* land in his occupation in one village, any of the things mentioned in Rule 4 for the purpose of conveying the wood, &c., so gathered or cut to, and using the same in, any other village in which he has a house or land, he must first of all obtain permission.

6. The permission requisite under the last preceding rule may be granted as follows:—

| | |
|---|---|
| *(a)* for cutting wood for building purposes;<br>*(b)* for cutting and removing bamboos to another village for any purpose;<br>*(c)* for gathering or cutting and removing firewood to another village in any quantity exceeding in the aggregate ten cart-loads for any one household during one year; | by the Assistant or Deputy Collector in charge of the *táluka;* |
| *(d)* for any other purpose; | by the *mámlatdár* or *mahálkari.* |

But applications for permission may in every case be received and inquired into by the *mámlatdár* or *mahálkari*, who, if necessary, will obtain the order of the Assistant or Deputy Collector thereon.

7. Every application for permission under Rule 5 must be in writing and must contain the following particulars:—

*(a)* the name, caste and residence of the applicant;

*(b)* the village and survey number in which the wood, &c., is to be gathered or cut and the name of the registered occupant;

* Vide Rules made under Section 79 A of the Indian Forest Act, VII of 1878, which are published in Notification No. [illegible] of the Bombay Government Gazette, Part I of the 15th Idem.

*(c)* when wood is to be cut or removed, the kind of trees, their number and dimensions, and their estimated value;

*(d)* when firewood, bushes or bamboos are to be removed, the number of cart-loads;

*(e)* the time within which it is proposed that the wood, &c., shall be cut and removed;

*(f)* the village to which the wood is to be taken, if wanted for transport and the route by which it is to be taken;

*(g)* the object for which the wood is required.

8. When permission is in any case given under Rule 6 a pass in the form hereto annexed will be prepared in four parts, of which one will be retained by the Assistant or Deputy Collector and three will be sent to the *mámlatdár* or *mahálkari* who will keep one himself, send one to the forest ranger and deliver one to the applicant. If the *mámlatdár* or *mahálkari* himself gives the permission one part will be unused.

A pass granted under this rule will not render unnecessary any pass required by the rules in force in the Forest Department.

9. Permission shall not be granted for the cutting or removal of any wood, &c., of an amount which the officer empowered to grant permission deems unnecessarily large; and the said officer shall enter in the pass such limit of time as he considers reasonable within which the cutting or removal permitted by him shall be completed, and if such cutting or removal is not completed within the time so prescribed, the pass shall nevertheless cease to be in force and application must be made for a fresh pass before any further cutting or removal is made.

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*Permit to cut or remove wood, &c., from occupied land.*

No.

| Name of Cultivator. | Village. | Survey No. | Timber. | | Firewood, *Táhál*, &c. | | Object for which cut or removed. | Time allowed. | Village to which to be taken. | Signature of the Officer granting the Permit. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Number and kind of trees. | Value. | No. of carts. | Name of article. | | | | |
| | | | | | | | | | | |

*By order of His Excellency the Right Honourable the Governor in Council,*

J. NUGENT,
Secretary to Government.

## Exhibit No. 212 of the Pendse Case.

(Referred to in paragraph 7 of Chapter VI. of Volume I. of the Forest Commission's Report.)

No. 412 OF 1831.

TERRITORIAL DEPARTMENT, REVENUE.

To

THOMAS WILLIAMSON, ESQUIRE,

Secretary.

SIR,

1*st*.—I have the honour to acknowledge the receipt of your letter of the 9th of November last, calling for my report on the subject of the Government Teak Forest in this *zilla*, and the necessity of continuing the expense of their preservation.

2*nd*.—This *zilla* contains four forests, two in the Principal division, those of Sálsette and Tudil in the Ráigad *táluka*, and two in the Sub-division, those of Málvan and Suvarndurg.

3*rd*.—The Sálsette Forest was planted in 1810, in the immediate vicinity of the town of Thána. The growth of the trees does not appear to have been in proportion to the length of time since the planting, from which it may be inferred that the hill land selected for the purpose is not favourable to this plant. There are now about 26,500 trees, but the estimated value of the whole is not more than Rs. 500. They are very thickly planted, which may, in some measure, account for the slowness of their growth.

4*th*.—Throughout Sálsette and also in most parts of the Southern Konkan all teak trees, wherever growing, were considered the property of the State. The prohibition against cutting them in the Southern Konkan was removed (with the exception of the reserves of Málvan, Suvarndurg and Tudil), and Government gave up to the rayats all claims it might have on these trees. In Sálsette, however, the prohibition has been retained, and Government still possesses a right to all teak trees, except in villages which have been made over to proprietors.

5*th*.—The Establishment sanctioned for Sálsette in 1810 appears to have had charge of the Government plantation at Thána and likewise of the trees throughout the island, and the present establishment entertained, namely, 6 peons, at 4/1 or Rs. 25/2 is employed for the same purpose.

6*th*.—I would recommend for the Thána preserve that the trees be thinned, and one peon only kept up to reside in the neighbourhood, and constantly to inspect the hedges and fences. From the sale of the hay in this preserve about Rs. 60 per annum is realised by Government so that the expense of the peon might be defrayed therefrom. A trial of a further period of ten or twelve years determines the utility of continuing the preserve.

7*th*.—In regard to the trees in Sálsette beyond the preserve, and in villages still retained in the hands of Government, I would suggest that the trees now fit for timber and rafters, be disposed of by sale, and the prohibition against the villagers cutting teak be then removed.

8*th*.—The Suvarndurg and Tudil preserves are in the neighbourhood of each other, and are under the inspection of a *kárkun* at 7, and two peons at Rs. 4¼ each making a total of Rs. 15½. Both these preserves have been kept up from the time of the late Government up to 1822. Orders in favour of private individuals, who required wood for their boats, or houses, were granted as formerly but as great frauds were discovered in these, many persons cutting and disposing of by sale large quantities of wood beyond these orders, the practice was prohibited, and the trees more carefully preserved.

9*th*.—In these forests there is said to be no timber of sufficient size and quality to be available for the use of the Government Dockyard. The number of trees in the Suvarndurg forest is about 30,000; of these about 8,000 measure from 7 to 38 feet in height and from 2¼ to 6 feet in girth. The remainder are of smaller dimensions. The trees of Tudil are much less in number and in value, being more scattered over the country.

10*th*.—Offers have been made to farm the privilege of cutting the timber of these forests, and as I am of opinion that Government can otherwise derive no advantage from them, I would recommend that this mode be adopted. The purchaser might be restricted to cutting those trees only which exceed half a foot in circumference, by which means 4 preserves might afterwards be again encouraged, should Government so desire. The farm must extend to a period of 4 years, and I have no doubt that from Rs. 10,000 to 12,000 might be realized by Government during the term.

11*th*.—The Málvan forest (for the care of which one peon is kept up at Rs. 4¼ per mouth) contains about 3,000 trees, I would recommend that this forest be disposed of as those of Suvarndurg and Tudil.

(Signature Illegible).

Collector.

## Exhibit No. 94 of the Pendse Case.

(Referred to in paragraphs 25 and 36 of Chapter VI. of Volume I. of the Forest Commission's Report).

*Government Resolution.*

No. 3827.

Lands.

*Revenue Department, Bombay Castle, 13th October, 1868.*

Letter from the Conservator of Forests, No. 775, dated 20th July 1868, forwarding copy of correspondence with the Collector of Thána on the subject of Government Resolution No. 2097, dated 27th May 1868, relative to the rights of rayats to cut trees on their lands, and observing that much practical inconvenience will in all probability be experienced in carrying out the instructions therein conveyed.

RESOLUTION.—The Acting Collector should be directed to give effect to the rules of the late Revenue Commissioner to the extent indicated in the Government Resolution quoted by the Conservator of Forests. There is an insuperable objection to making the pass system applicable to landholders in the position of Mr. D'Almeida, on whose petition the former Resolution was passed.

2. It will be easy to carry out the limitation if the Collector will bear in mind that persons owning land near Government reserves will gladly ask for passes, rather than run the risk of their timber carts being detained for enquiry.

(Signed) J. A. WYLLE,
Acting Secretary to Government.

To
The Conservator of Forests,
The Revenue Commissioner, N. D.,
The Collector of Thána.

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## Exhibits Nos. 276 B to 276 H of the Pendse Case.

(Referred to in paragraph 30 of Chapter VI. of Volume I. of the Forest Commission's Report.)

### Exhibit No. 276 B.

No. 3639 OF 1852.

TERRITORIAL DEPARTMENT, REVENUE.

To

THE REVENUE COMMISSIONER, N. D.

Copy of the Resolution passed by Government under date 26th May 1852, on a memorandum* by the Revenue Commissioner, Southern Division, dated 5th May 1852, No. 1004, forwarding for the orders of Government, one from the Collector of Poona, No. 683 of 15th March 1852, with accompaniments relative to the right of Shrinivásráv Deshpánde, to certain *kurán* land in Párgáv, and expressing his concurrence in the opinion expressed by Captain Wingate in his memorandum No. 110 of 19th April 1852.

* Copy of memorandum and accompaniments appended.

Captain Wingate's opinion to be acted on in disposing of this and similar cases.

(Signed) H. E. GOLDSMID,
Secretary to Government.

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### Exhibit No. 276 C.

No. 1004 OF 1852.

TERRITORIAL DEPARTMENT, REVENUE.

Submitted for the information and orders of the Right Honourable the Governor in Council.

2. The Revenue Commissioner, Southern Division, concurs entirely in the opinion expressed by Captain Wingate, the Survey Commissioner.

(Signed) W. COURTNEY,*
Revenue Commissioner, N. D.

*Revenue Commissioner's Camp,*
*Nehr, 5th May 1852.*

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## Exhibit No. 276 D.

No. 1201 OF 1851.

To

THE ACTING COLLECTOR OF POONA.

SIR,

As the subject mooted in the following letter is one of some importance as regards the nterpretation of the Survey Rules generally and has a special bearing on the subject of Forest Preserves as apportioned or intended to be apportioned in each *zilla*, I am respectfully of opinion that the pleasure of Government should be taken regarding it.

2. In the section of my Forest Report for 1850 which embraces the *bábhul* preserves of the Deccan, I remark "of the *kuran* of Párgáv a large portion had been years ago taken up by a Deshpánde for cultivation, but practically for appropriation on account of the grazing, and wood† from both of which he derives large profits."

3. The subject has, as you are aware, been discussed in the Maráthi correspondence and while I have admitted on what I believed to be good grounds, the inexpediency of resuming that portion of the *kuran* which has been long ago appropriated by the villagers for the raising of grain crops, I have maintained that the possession by the Deshpánde on survey rates of the lower part of the *kuran* for the raising of grass and the cutting of wood is a direct interference with the right of Government in the *kuran* land and with the profits derived therefrom.

4. The Deshpánde pleads the 5th clause of the Survey Rules as making good his title to the land. I argue that Rule 11 (if any) is the one applicable to the case under review. You state that as he has had possession for 20 years, you decline to disturb it, but that you leave the case open for appeal to higher authority.

5. Rule 10 provides for confirmed possession of Government fields but does not, I submit, apply to the usurpation of *kuran* land.

6. I am not aware that the Deshpánde has any particular claim to the consideration of the British Government.

7. He is a rayat of Scindia residing at Pátas and although he has a dwelling in Poona and conducts money transactions in our districts, his principal business lies, if I mistake not, in those of Scindia.

8. I carefully examined the piece of *kuran* in question last month and it appeared to me to be not the least valuable of those in Bhimthadi; moreover, the contiguity of such a *kuran* to our Government Reserves affords so many opportunities for fraud and embezzlement in wood, &c., that in case possession can be on fair grounds resumed, the interests of Government (independent of the mere local pecuniary returns) will be materially promoted by this course being taken.

9. The Maráthi papers are herewith returned.

I have, &c.,
(Signed) A. GIBSON,
Conservator of Forests.

*Camp Bahdeo, Nusráápur Táluka, 25th November 1851.*

## Exhibit No. 276 E.

No. 27 of 1852.

FROM

F. S. CHAPMAN, ESQUIRE,

Acting Second Assistant Collector;

To

THE COLLECTOR OF POONA.

*Camp, Souphe, 6th March 1852.*

SIR,

I have had the honour to receive your communication No. 557 of the 28th ultimo, forwarding copy of a letter from the Conservator of Forests, regarding the *kuran* of Párgáv.

2. The question involved in the correspondence is the right of Collector to oust one Shrinivásráv Deshpánde from a valuable *kuran* he has held in the village of Párgáv on *rayatvár* tenure for a period of upwards of 20 years.

3. The Deshpánde founds his claim to the *kuran* on Rule No. 5 of the Joint Report. Dr. Gibson on the other hand asserts the case comes more properly under Rule XI. As the Deshpánde does not pretend to hold the land on any of the tenures mentioned in Rule X., there can be no doubt that if the case is to be decided by the Survey Rules Dr. Gibson is correct in his opinion. This decision, however, would only affect the right to the trees, and would leave untouched the question of title to the land.

4. This case appears to me an important one, inasmuch as it involves to a certain extent the general question as to whether or not the Survey Rules are to be looked upon as having a retrospective effect. Even if they are to be so considered, I know of no rule by which the Deshpánde could be ejected. For although the right of determining what land shall be cultivated and what shall not, is vested in the Collector by Rule XIV., yet I apprehend this rule can apply to cases only where the land is without a tenant, and cannot affect the rights of a tenant in actual possession. Dr. Gibson would appear to attach some weight to the fact of the land not being made use of for purposes of cultivation but for the raising of grass. The use (provided it is not an injurious one) which a rayat chooses to make of his field cannot possibly affect his right of ownership.

5. If (and I think correctly) the Survey Rules are not to be held applicable to transactions that took place previous to their introduction, it remains to be seen what would be the law under the old regimé. First then, as to the right of possession, a copy of an order from the *mámlatdár* granting the land to the Deshpánde's ancestors is forthcoming. This order, even supposing it to have been obtained by false representations on the part of the villagers or by other indirect means, must be upheld as the act of an authorized officer. Next as to the claim to the trees, the Deshpánde declares he has been put to considerable trouble and expense in rearing and protecting them. I am not disposed to attach much importance to this assertion, the trees not being of a nature to require any very great amount of care. Under the old system an *upri* rayat was, I imagine, never entitled to the use of trees growing in his field though in the present instance the right seems to have been unjustly usurped.

6. On the whole I am of opinion that the Deshpánde's right to the land cannot be disturbed, he should not, however, be permitted to make use of the timber growing on it. It will then remain to be seen whether after this restriction he will consider it worth his while to retain possession.

I have, &c.,

(Signed) F. S. CHAPMAN,

Second Assistant Collector.

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## Exhibit No. 276 F.

No. 682 of 1852.

FROM

E. C. JONES, ESQUIRE,

Collector of Poona;

To

F. S. CHAPMAN, ESQUIRE,

Acting Second Assistant Collector of Poona.

*Collector's Office, Poona, 15th March 1852.*

SIR,

I have the honour to acknowledge the receipt of your letter No. 27, dated 6th instant, relative to the right of Shrinivásráv Deshpánde to the *kuran* land in Párgáv village, and in

reply, beg to state that I agree with you in the opinion that his right to the occupation of the land cannot be disturbed but that he should not be permitted to make use of the timber growing thereon, and request you will be so good as to issue the necessary orders pending the receipt of the instructions solicited from the Revenue Commissioner, N. D.

I have, &c.,

(Signed) E. C. JONES,
Collector.

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## Exhibit No. 276 G.

No. 683 of 1852.

True copies forwarded for the information of the Revenue Commissioner, S. D., who will be so good as to favour the Collector with the necessary instructions as this Department appears to be at variance with the opinion expressed by Dr. Gibson.

(Signed) E. C. JONES,
Collector.

*Collector's Office, Poona, 15th March 1852.*

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## Exhibit No. 276 H.

Poona Collector's memorandum No. 683 of 15th March 1852, relative to the right of Shrinivásráv Deshpánde to the *kuran* land in Párgáv.

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No. 646 of 1852.

Captain Wingate, Survey Commissioner, is requested to be so good as to favour the Revenue Commissioner, S. D., with his opinion on the point raised in the correspondence herewith submitted.

(Signed) D. COURTNEY,
Revenue Commissioner, S. D.

*Revenue Commissioner's Camp, Ratnágiri, 24th March 1852.*

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No. 110 of 1852.

Captain Wingate entirely agrees with the Collector and Mr. Chapman, that the right of the Deshpánde to the occupation of the land cannot be disturbed; but at the same time he is of opinion that the order given by the Collector for depriving the Deshpánde of the use of the timber growing thereon is not in accordance with the Survey Rules.

2. Captain Wingate considers that Rules 5, 10 and 12 apply to this case. Mr. Chapman in the 4th paragraph of his letter appears to have taken a correct view of the rights of the occupant; but Captain Wingate cannot concur in the opinion expressed in the next paragraph, that the Survey Rules are not applicable to transactions that took place previous to their introduction. The term of occupancy specified in Rule 10 which conveys to the holder a right of property in trees is not in Captain Wingate's opinion to be dated from the introduction of the Survey Rules, but from the commencement of the incumbent's occupation as a holder paying the ordinary rates of assessment.

3. The Conservator of Forests draws a distinction between *kuran* and Government lands, but no such distinction is recognized by the Survey Rules in the case of lands held by occupants who pay the Survey rates. Such parties are unquestionably at full liberty to manage their lands as they may think proper. Government by granting part of the *kuran* lands by its authorised officers to the Deshpánde and other parties at the ordinary rates of assessment relinquished its own right to the occupation of the land as *kuran*, and the mere fact of the Deshpánde having preferred to devote his portion of the land to the growth of grass and wood, instead of cultivating it with grain crops, does not in any degree weaken his title to all the privileges of an occupant under the Survey Rules.

4. Captain Wingate is, therefore, of opinion that if the Deshpánde and his ancestors have held the land in question for a period of twenty years he has the absolute right of disposing of the whole timber growing on it under Rule 10, and that if his occupancy is of more recent origin, he has under the same rule an equally absolute right of property in all trees that have grown up since the land came into his possession.

5. But it is expressly stated in the 2nd paragraph of Mr. Chapman's letter that the Deshpánde has held the lands on *rayatwár* tenure for a period of upwards of twenty years, and under these circumstances Captain Wingate is of opinion that the restriction imposed

by the Collector against cutting the timber should be immediately removed, and that the Deshpánde should be informed that he has acquired a proprietary title to the whole of it under the provisions of the 10th Survey Rule.

6. One object of that rule is to promote the growth of trees by securing a right of property in them to the planter, and it would seem to be in the last degree inexpedient as well in direct contradiction of this provision to make use of the very fact, *viz.*, the conservation of the trees by which the Deshpánde's right of property in them is sought to be established by the rule for the purpose of depriving him of this right of property altogether.

(Signed) G. WINGATE,
Survey Commissioner.

*Camp Mahábaleshwar, 19th April 1852.*

(True Copies)
(Signed) H. E. GOLDSMID,
Secretary to Government.

(True Copies.)
A. R. GRANT,
First Assistant Collector in charge.

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## Exhibit No. 175 of the Memorial to the Viceroy by the inhabitants of Tha'na.

(Referred to in paragraph 43 of Chapter VI. of Volume I. of the Forest Commission's Report.)

*(Translated from Maráthi.)*

PROCLAMATION.

In this *zilla* there prevails the practice of charging the *ság* (*i. e.*, teakwood) in the *málki* numbers [*i. e.*, private properties] at the uniform rate of Rupees seventy for one hundred. On considering the matter, it being deemed proper that there should be changes made therein, the following rules have been framed :—

1. The period of (3) three months is granted to the people that they may think over the matter and inform [the Government] as to whether they would or would not agree to buy trees at the different rates fixed for each *táluka*.

2. Those who would agree to buy trees at the fixed rates are to cut trees at their own expense, and after cutting them the price thereof would be charged on measuring them.

3. The trees which are standing are not to be sold.

4. If according to these [rates] none should agree to buy them within three months time, Government will have them cut at their own expense and sell the same by auction.

5. Until the time teakwood in *málki* numbers [*i. e.*, private properties] is disposed of as aforesaid, cutting [of trees] will not be allowed in other Government forests.

6. The trees which measure 8 inches in circumference from 6 inches above the base thereof will alone be measured and prices thereof charged. And trees which measure less than that in circumference will be allowed free of charges and it will be [wholly] left to a person's wishes whether to cut them or not.

7. Tree cut down (

| Name of the *Táluka.* | Rupees for one hundred. | REMARK. |
|---|---|---|
| Dahánu | 40 | At such a place, that is to say, at a place which is at a great distance from the [Railway] stations or the Bunder and the road to which is bad, the rates will be still reduced on account of those other causes as occasion will require. |
| Máhim | 50 | |
| *Péta* Mokháda | 25 | |
| Váda | 40 | |
| Bassein | 60 | |
| Karjat | 75 | |

8. The aforesaid rule is not applicable to that village where the rayats might have purchased the trees before this [proclamation]. In respect of them whatever arrangement is to be made will be made after further consideration.

Dated the 16th September 1870.

The Taláti of Jadhal is to circulate this in Chauk village. Dated the 11th October 1870.

AVALKA'RKUN.

Signature in English of the

Acting Collector of Thána.

Translated by me,
NÁNABHÁI SADÁNANDJI KA'LE,
Translator.

3rd March 1883.

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## Exhibit No. 181 of the Memorial to the Viceroy by the inhabitants of Tha'na.

(Referred to in paragraph 51 of Chapter VI. of Volume I. of the Forest Commission's Report.)

No. 126 OF 1875.

*Mátherán, 10th March 1875.*

To

THE ACTING CHIEF SECRETARY TO GOVERNMENT,
Revenue Department,
Bombay.

SIR,

IN THE HIGH COURT.
*Special Appeal No. 1 of 1874.*
Collector of Thána ..... Appellant (Original Defendant).
*vs.*
Atmárám Nílkant Tipnis ..... Respondent (Original Plaintiff).
Claim—Rs. 5.

I have the honour to report upon the case noted in the margin, the hearing of which is fixed to take place within the next fifteen days.

*Facts of the case.*

2. This important suit is the only one at present pending in which the right of Government to teak and blackwood trees growing in the private lands in the Konkan is directly in issue. A somewhat similar suit was instituted by the Collector of Thána himself in the Dahánu Sub-Judge's Court in 1869 and 1870 with regard to some teak trees standing in a survey number in a village of that *táluka*, which had been attached in execution of a decree against the occupant of the number. The Collector came to the conclusion that these attachment-proceedings were being taken with a view of evading the existing rules of his department as to the cutting of such timber, and in order to bring in question the right of Government to place any restriction at all upon the felling of such teak trees, and he therefore applied to have the attachment raised. The Subordinate Judge in a somewhat intemperate judgment declined to raise the attachment, and the Collector was therefore compelled to bring a regular suit. This has been decided in his favour both in the original court and also by the Assistant Judge on appeal. The Assistant Judge's decision was passed in November last, but the principal ground upon which it is decided being quite unconnected with the merits of the case, it is unnecessary to make a further reference to it.

3. The plaint in the present case was filed in 1870, and from the smallness of the value of the claim, and the delay which was made in bringing it, it is apparent that the suit was instituted with a view of establishing a precedent for all such claims, and it is probable that the Dahánu case and this were really promoted by the same parties. This case was tried by the Assistant Judge, Mr. Cordeaux, and on the 28th of October 1870 he rejected the claim with costs. The decision was confirmed by the District Judge, Mr. Coghlan, on appeal on the 5th of April 1872. In his judgment Mr. Coghlan stated that he decided the appeal strictly on the precedent of Govind Purushottam *vs.* the Sub-Collector of Kolába (VI. Bombay High Court Reports, 188) "although he could not follow or understand the

principle upon which the case was decided." A special appeal was then preferred to the High Court and the case was remanded by JJ. Lloyd and Kembal for retrial, it being held that the suit was distinguishable from Govind Purushottam's case and must be tried on its own merits.

4. Before explaining the grounds upon which the District Judge has now reversed his former judgment and passed a decree in favour of the plaintiff, it will be well to set forth the nature of the evidence put in on either side.

5. The suit was brought to recover the value of a dead teak tree which was removed from the plaintiff's land in 1867 and sold by the Collector and his subordinates. The land had been purchased by the plaintiff in 1857 from the *sutidár* in whose occupancy it was. This was after the Survey Settlement had been made applicable to it and the usual *rájináma* and *kabuláyat* were therefore passed by the *sutidár* and the plaintiff respectively. The plaintiff's case is: (1) that the *suti* tenure gives him a proprietary right to the soil, and therefore also to the trees attached to the soil, and (2) that even were this not so, No. 10 of joint Survey rules and subsequent orders of Government have distinctly recognized the survey occupant's rights to all the trees in his number. The Collector's contention, on the other hand, is (1) that teak and blackwood, wherever growing, have always been considered royalties to which the occupant of the land has no title, and (2) that No. 10 of the joint rules was never made applicable to the Konkan in its integrity.

6. The only evidence which has been put in to prove that teak trees were considered and treated as royalties by the former Government is contained in some documents obtained from the Poona Daftar (Exhibits Nos. 66-72), the material portions of which I translate as follows:—

66 Extract from an order of the Peshwa.

"The *zamindárs* of *tarf* Nágotne, *tarf* Ashtami, *tarf* Shimal and *táluka* Avchitghad came to the *huzur* at Purándhar and represented that the rayats of the *mámlatdárs* of the above *tálukás* are exposed to new annoyances and are therefore becoming scattered and the country is not prosperous and asked that we should take measures to ameliorate this. Therefore on consideration the *huzúr* makes the following orders, which are to be observed by all *mámlatdárs*.

* * * * *

"In the above *tarfs* the felling of teak has been recently prohibited, but there is a tax on the *varkas* land in the different villages, and if to meet the tax the jungle is cleared in order to make (cultivate the) *varkas*, teak trees must be cut down. On this account no *varkas* is made and still the tax has been paid. Therefore it is ordered that the teak jungle shall be preserved only where it is thick; where it is thin let the rayats clear it."

67 Extract from Khatávani (A.D. 1784.)—

"To Jivájee Gopál of Revadanda."

"The teak trees in the jungle are to be preserved. For trees required by Government a *chiti* should be given and the men engaged in the works should fell them in his (the farmer's) presence. None should be felled except for Government purposes or without a *chiti*."

68 Clause in a license for cutting firewood, &c. (A.D. 1798.)

"The *Mahál* issues injunctions not to cut teak and permission is given from the *Subha* to cut rafters and with the *Subha's* permission they are cut and taken to Bombay, &c. Whoever does not pay the fee due thereon to the firewood farmer should (be made to) do so."

69 Extract from a Jhadti (A.D. 1805).

"The farm of the Government fees on teak and other building timber, brought by merchants to the Kalyán Bunder, has been given to Káshináth Appáji Sahasrabudhe for Rs. 501."

70 Extract from an Ekheriji (A.D. 1749).

"On account of Makund Hari Haváldár for *pargane* Sakhurti, payment for about 1,226 trees cut, in all about 1,328, *límiya* at three annas per *límí* credited as per account Rs. 249."

"2. On account of Ganesh Bahirav Haváldár for *pránt* Wádi, payment for about 175 trees cut. One *limi* at three annas per *kodi*, by the hand of Mahamadji Pavale and Bedrudin Suse, credited Rs. 32-13-0."

71 Extract from a Jhadti (A.D. 1783.)

"Exemption for one year at Bájipura, Agáshi and other places the l'ándharpesha's houses have been burnt down in the English revolt. In order that they may be rebuilt this year, teakwood beams, rafters, and other large and small pieces have been ordered to be given to them free of *tijái*. Separate *sanads* have been issued to this effect. Therefore when they bring timber, let them bring it without demanding *tijái*."

72 Extract from an Azmas (A.D. 1783.) *Táluka* Vasai.

"Your request that as the *Sávkárs'* and other houses at Bajipura were burnt in the English revolt and they have to be rebuilt and that when they bring in wood from the jungles for this purpose they should be exempted from *tijái*."

(In reply it is ordered that) in building their new houses, you should let no body build close to the fort, let them build to the north of where the *sirkár's váda* was before, and not on the side towards the fort. Let each cut and bring in sufficient wood from the jungles for his own private house. And keeping the prosperity of the place in view on account of this work, for one year do not collect the *tijái*, generally from whoever builds his house this year."

7. The earliest order on the subject of forest timber under our rule, which has been put in, is one dated 10th August 1839. (Exhibit No. 25). It is a Circular Order issued by the Collector to the effect that he understood that people were beginning to cut down teak and *khair* in large quantities under the impression that Government contemplated making some new arrangements concerning teak timber, and he therefore directed that they should be prohibited from cutting more than the amount which had been usually cut annually hitherto.

8. The next order in point of date is (Exhibit No. 28) a proclamation issued by the Collector on the 12th July 1847 in which after assuring the people that Government has adopted and always is adopting measures for their welfare and happiness, and instancing the opening of schools and the sanitary measures recently inaugurated; he states that "Government is very sorry that trees are always being cut down in the country and that the number of new ones planted and of those that grow spontaneously is much smaller than that of those cut," and after recounting the evils arising from a denudation of the country of trees, states that Government makes certain orders amongst which are—

(1). That all landholders and *vatandárs* should plant trees in the corners (? boundaries) of their lands.

(2). That whoever shall plant trees in his own land, he will be understood to be the owner of them, to the same extent, as he is of his trees which now grow in his lands.

(3). That the above decision is applicable to the orders at present in force about teak trees.

9. What, "the orders at present in force about the teak trees," were, it does not appear, but in a subsequent order dated 12th August 1847 (Exhibit No. 27) sent by the Collector to the *mámlatdárs* in continuation of the order with which he forwarded the above quoted proclamation for publication, some very distinct orders were given about teak trees. I have translated the material parts of this order, and appended the following extracts:—

Para. I., clause 5.—"Do not allow teak in Government lands to be cut at all and continue to enforce the orders which have already been given to you not to allow even certain kinds of common trees to be cut in certain reserved parts of every village. But do not prohibit the custom hitherto in vogue of cutting wood in waste and *kuran* lands, but take measures that young trees which are likely to become useful for building purposes, shall not be cut."

Para. II., clause 1.—"From the accompaniments to Dr. Gibson's letter, dated 18th June 1847, it appears that a very great deal of teak has been cut in the Ráigad and other *tálukás*. A separate order has been sent to the *tálukás* concerned to inquire about this; but it is now determined that teak trees, large or small, and whether or not permission has been already given, are not to be allowed to be cut at all unless a fresh order is received except in hereditary *inám* and *dharmádáya* villages. If anybody cuts any without an order, prepare a case against him under Clause III., Section 42, Regulation XIV. of 1827, and do not dispose of it yourself but send it according to custom to the *Pránt*."

Clause 2.—"If permission is wanted in future for cutting teak it will be given after informing Dr. Gibson, and you should allow the wood to be cut only if Dr. Gibson himself or some one on his behalf is present, and even if wood is cut for Government purposes, you are to make the same arrangement, and the value of wood cut, should be ascertained and included in the Government *jamábandi*, and you should write and inform me of it."

Clause 5.—"The preservation of teak being most useful it is intended to give such trees as have grown up within the last seven or eight years at one-fourth of their value or for the labour of preserving them, when Government think they are fit to cut; but for the present you should take measures through the rayats as follows:—

(1). "Teak growing within the village should be preserved."

(2). "Teak saplings should not be cut along with other trees as they are now."

(3). "Teak trees when pruned for *ráb*, should be cut as follows (certain detailed instructions are given which it is unnecessary to mention)."

10. Amongst the Vernacular papers from the Collector's records two agreements, dated 1856 and 1857 respectively, have been put in (Exhibit 38). They were passed by men who had obtained permission to cut some trees in the jungles of certain villages in the Karjat *táluka* and they have been put in to show that it was at that time the custom for such men to undertake to cut no more trees than they had received permission for, and not under any circumstances to fell teak or blackwood trees.

11. The plaintiff's village is situated in the Karjat *táluka* which was formerly known as the *táluka* of Nasrápur. The Survey was introduced into this *táluka* in 1855-56. Colonel Francis was at that time Superintendent of the Revenue Survey, and on the 26th of July 1856 he issued an order (No. 233) to the *mámlatdár* of Nasrápur informing him that the same Joint Report rules of 1847 which had been applied to the Survey Settlement above the Ghâts, and of which he already possessed a copy, would apply to his *táluka*, but that certain explanations were needed as to the manner in which they were to be understood which he proceeded to give. Amongst them was the following, with respect to Rule X.

. Rule 10 is that the owner of a field has the right to cut down the trees therein, therefore he must be deemed to have the same rights here; but there is no permission under this rule to cut teak, *ain*, blackwood and other trees which are under the conservancy of Dr. Gibson, the Conservator. They must be preserved as has been the custom hitherto.

12. Thus far I have been referring only to the local vernacular orders, which have been filed on the subject of teak trees. But several orders of Government have also been made evidence in the case. The earliest are contained in the letter noted in the margin. The inquiries which had then been made on the subject of restriction on the cutting of trees are said to have shown—

Government letter No 390, dated 12th February 1847, in the Territorial Department.

I. That the rights of *inámdárs* and *mirásdárs* to cut trees growing on their lands had never been interfered with either under the late or present Government.

II. That while restriction had been placed with more or less stringency in the Deccan and Southern Marátha Country against the felling of trees in *gatkul* or other lands belonging to Government, the rayats had never been refused permission to cut timber in such lands, when it was required for the construction of agricultural implements, houses, &c.

And a set of three rules framed by the Revenue Commissioner, S. D., was sanctioned by the Government with certain modifications suggested by Dr. Gibson, the Conservator of Forests. It is unnecessary to quote these rules, because they are almost immediately afterwards embodied in Nos. 10 and 11 of the Joint Survey Report rules. [*Vide* page 49 of the official correspondence on the system of Revenue Survey and Assessment (edition of 1850)]. In this letter No. 5593, dated 22nd September 1848, commenting upon the Joint Survey Report, Government approved of the 10th rule, because it was in conformity to the views expressed in the Government letter No. 390, dated 12th February 1847 (para. 32), and with regard to the 11th rule, were of opinion that the rules prescribed in the Government letter last quoted should be upheld (para. 33).

13. The Joint Survey rules Nos. 10 and 11, therefore, eventually took the following form:—

"Rule X.—Proprietors of *inám*, *judi* and *mirás* lands having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein, and also holders of Government fields, of which they have been in uninterrupted occupancy from a period anterior to the age of the trees or for a period of 20 years, or who have purchased the trees under the provisions of Rule II.

N. *Vide* page 22 of the official correspondence on the system of Revenue Survey and Assessment (edition of 1850)].

"Rule XI.—Holders of Government fields besides those specified in preceding Rule, or occupants of *mirás*, *judi*, or *inám* lands, holding the same from Government, must obtain permission to cut down trees and will, in the event of permission being given, be required to plant two trees for every one cut unless exempted from this condition by order of the Collector. The permission to cut trees under this rule and also trees in Government waste fields, for any purpose connected with agricultural operations, to be granted by the *pátil* and *kulkarni* on application, a record thereof being kept for the inspection of the Government officers. For other actual and immediate wants of the villagers, such as repair of houses, &c., permission to be obtained from the *mámlatdár* or *mahálkari*; but for cutting any large number, or for any purpose of sale or porfit, the permission of the Collector or one of his assistants to be necessary, when any conditions which may appear advisable can be imposed."

14. With reference to these rules, it is important to observe:—

(1) that they were originally sanctioned by Government, with reference to the ascertained practice in the Deccan and Southern Marátha Country (*vide* para. 10 *supra*), and

(2) that in para. 84 of Joint Report, the Superintendent of Survey stated:—

"In submitting them (*i.e.*, the Survey Rules generally) for approval we wish it to be understood, that they should be applicable only to the Collectorates above the Ghâts already or in course of being so. In other divisions of the Presidency where the husbandry and revenue system are different, great alterations might be necessary [*vide* page 19 of the official correspondence on the system of Revenue Survey and Assessment (edition of 1850)]."

15. In March 1851 a supplemental rule was sanctioned by the Government to the following effect (see page 142 of the edition of 1859 of the official correspondence on the system of Revenue Survey and Assessment) :—

"The specifications regarding trees contained in the 2nd, 10th and 11th of the Survey Rules, are not to be considered applicable to villages and parts of villages, specially selected by the Conservator of Forests, and approved by Government, for the growth and preservation of teak and other trees, on behalf of Government. In such villages and parts of villages, property in trees, and also the management made for their preservation, shall remain unaffected by the introduction of the Survey Settlement."

Colonel Francis, whose evidence was adduced in Court, with a view of explaining his order No. 233, dated 26th July 1856 (para. 9 *supra*) on the introduction of the Survey Settlement into the Nasrápur *táluka*, has stated that he excepted teak and blackwood from the operation of Rule 10, because he considered them royalties, and that he did not apply for sanction for his modification of that rule, because it was made in the spirit of the above-quoted supplemental rule. It does not appear that Government ever formerly sanctioned this modification of Rule 10 ; the settlement generally was approved by it in 1867. Colonel Francis had, however, to admit in reply to the Court that plaintiff's village had not been specially selected by the Conservator of Forests and approved of by Government for the growth and preservation of teak and other trees on behalf of Government.

16. In 1862 the Revenue Commissioner, N. D., Mr. Ellis, laid down a set of rules regarding the right to trees in surveyed districts in the Konkan. His letter No. 2545, dated 30th October 1862, has been filed in evidence. The 2nd para. of it is as follows :—

"It is hardly necessary to premise that the rules of the Survey Joint Report in regard to trees in the Deccan have not been applied to the Konkan."

It does not appear that the Government Resolution sanctioning Mr. Ellis' rules has been put in evidence in the case, but I gather from the correspondence that they were sanctioned by Government Resolution No. 1945, dated 15th June 1863, para. 2.

17. Mr. Ellis' rules so far as they apply to teak and blackwood trees in other than reserved numbers were as follows :—

"(A). When the trees are numerous to be specially entered in the records as forest rights reserved."

"(B). When the trees are thin and few to be offered to the holder of the lands at a valuation, and if refused, the trees to be cut down and sold."

The papers before me do not explain why these rules were not applied to the plaintiff's trees, although it seems, from a document recorded in the case, that in April 1864, the trees in the field No. 64, of which plaintiff's land forms part, were counted and it was found that there were in all only 17 teak trees in the number, and they were valued at Rs. 7. In the Sub-No. 5 which belongs to plaintiff, he has stated in evidence that there was but this one teak tree on account of which the suit has been brought.

18. The next order, which it is of importance to notice, is one issued by the Government in their Circular No. 734, dated 27th February 1866, cancelling Rule II of the Joint Survey Rules. It states that His Excellency the Governor in Council having reason to believe that "that rule is calculated to destroy the feeling of right of property in trees and to deter rayats from preserving them, is pleased to direct that the said rule be cancelled in all Collectorates where it is at present in force." In communicating this order to the District Officers, the Collector of Thána in his Circular Order No. 91, dated March 1866 (Exhibit 34), informed them that it applied to all trees, except teak, blackwood and fruit trees.

19. In October 1867 Mr. Almeida forwarded a petition to Government representing that he was not allowed to cut trees on his own land in Mulgáv in Sálsette without the permission of the *mámlatdár* and praying that the Government circular mentioned in the last paragraph might be made applicable to his case. In reporting on this petition the Revenue Commissioner, N. D., stated that Government were aware that the Survey Joint Rules in regard to trees were never made applicable to the Konkan, and that petitioner could therefore not get the benefit of the circular above quoted. The Resolution which Government passed (No. 2097, dated 27th May 1868,) so fully sets forth the policy of Government in respect to trees in private holdings, that it will be well to quote it at length :—

"Petition from Mr. De Almeida, dated 16th October 1867, representing that he is not allowed without the permission of the *mámlatdár* to cut trees on his own land at Mulgáv in the Sálsette *táluka* of the Thána Collectorate, and praying that the Government Circular No. 734, dated 27th February 1866, may be made applicable in his case.

"Memorandum from the Acting Collector of Thána, No. 3016, dated 31st October 1867, reporting on the above.

"Memorandum from the Revenue Commissioner, N. D., No. 5666, dated 30th November 1867—Submitting the above and stating that the Government are aware that the Survey Joint Rules in regard to trees were never made applicable to the Konkan and that petitioner cannot get the benefit of the circular above quoted.

"Further memorandum from the Revenue Commissioner, N. D., No. 214, dated 17th January 1868—Forwarding a copy of the rules regarding the right to trees in surveyed districts, and stating that these rules are still in force throughout the Northern Division.

"Letter from the Acting Collector of Thána, No. 1318, dated 25th April 1868—Replying to the letter from Government, No. 326, dated 25th January 1868, requesting him to report under which class of trees petitioner's should be reckoned, and on which of Mr. Elliot's rules he (the Collector) relies for the view taken by him of petitioner's claim.

"RESOLUTION.—The practice is quite opposed to the spirit of the rules quoted to support it. Those rules like the Government Circular No. 734, dated 27th February 1868, both had for their object the discontinuance of all interference on the part of Government with trees growing on the land of rayats.

"2. The Circular was not applicable to Thána, because the rule of the Joint Report which it cancelled, was not in force in that District, but nevertheless, had any similar rule been in force, it would have been the duty of the Revenue Commissioner to cancel it.

"3. The rules of the late Revenue Commissioner distinctly provided the means of getting rid of the Government rights in trees growing on rayats' land, and there is nothing in those rules to justify constant interference and inquiry by the necessity for a rayat to obtain permission to cut down trees growing on his own land.

"4. The late Mr. Gordon appears to have made such a rule for a different object—the protection of the Government forest. In villages close to Government forests the rule may be expedient equally for the protection of the rayat from the liability to have his wood seized on suspicion, as for the prevention of plunder of Government forests.

"5. But except in the immediate proximity of the Reserved forests there are no valid reasons for continuing the rule and except in such situations it should forthwith be abrogated."

20. The Conservator of Forests subsequently reported to the Government that much practical inconvenience would probably be experienced in carrying out the instructions conveyed in the above quoted Resolution. But in reply Government passed the following Resolution:—(Government Resolution No. 3872, dated 13th October 1868).

"Letter from the Conservator of Forests No. 775, dated 20th July, forwarding a copy of the correspondence with the Collector of Thána, on the subject of Government Resolution No. 297, dated 27th May 1868, relative to the right of rayats to cut trees on their lands; and observing that much practical inconvenience will, in all probability, be experienced in carrying out the instructions therein conveyed.

"RESOLUTION.—The Acting Collector should be directed to give effect to the rules of the late Revenue Commissioner to the extent indicated in the Government Resolution quoted by the Conservator of Forests. There is an insuperable objection for making the pass system applicable to land-holders in the position of Mr. D. Almeida, on whose petition the former Resolution was passed.

"It will be easy to carry out the limitation if the Collector bear in mind that persons owning lands near Government reserves will gladly ask for passes rather than run the risk of their timber carts being detained for inquiry."

21. One other order must be mentioned, because, although not directly bearing upon this case, it shows that Government never have intentionally relinquished whatever rights they may have to the forest trees in holdings held on the *suti* tenure. In their Resolution No. 1240, dated 28th March 1868, Government directed that there should be no interference with teak and blackwood, or any other tree growing on *dhára* land; but when the Conservator of Forests enquired whether this Resolution applied to such holdings all over the presidency; Government (Resolution No. 2095, dated 27th May 1868) concurred with Colonel Francis in thinking—

"(1) that it should be held applicable only in the districts to which Dunlop's proclamation extended; and

"(2) that, it is not applicable to any part of the Northern Konkan, where the *sutidár* stands in the place of the *dhárekari*, except, however, with the important distinction that he has never enjoyed any property in the teak and blackwood growing in his holding."

22. When this case was before the High Court, a question arose as to "what rules were framed for the guidance of the Local Revenue Officers when the Survey was

introduced into the Nasrápur *táluka*." During the trial in the Lower Court, the plaintiff had applied for the production of any such rules, and a book containing the old Joint Rules and the revised Survey Rules, under Bombay Act I of 1865, was put in. Before the High Court, however, it was contended that the rules promulgated at the time of the settlement of the Nasrápur *táluka*, were distinct and a printed copy of the Joint Rules in Maráthi, headed "Tal Konkan," was produced by the plaintiff, containing all the rules which were then in force above the Ghâts, without any modifications, either in Rule 10 or any of the other rules; and it was alleged that these were the rules promulgated in the Nasrápur *táluka*. At the re-hearing of the suit in the District Court, this copy of the rules has been recorded; and Colonel Francis was examined, with regard to it. He stated as follows:—

*Vide* Official correspondence relating to the system of Revenue Survey and Assessment, (edition of 1869).

"Exhibit 32-A. is a copy of the Deccan rules for use in the Konkan; it bears my signature. I believe that I issued it for use in 1856-57 or 1858. It does not contain my modification of Rule 10 or any reference to it. It is either contemporaneous with, or posterior to, the modification of Rule 10." And again—

"These rules are the same as the Deccan Rules with a heading for the Konkan. I issued them for use." And again—

"The Deccan Rules were made generally applicable to the Konkan with the exception of the Rule 10, which I modified."

23. I have now, I think, exhibited all the principal facts which were before the District Judge, when he passed his second decision in favour of the plaintiff on 17th July 1873. I must now state the grounds on which his judgment is based. They are briefly as follows:—

(1). Plaintiff has proved his possession of land for more than 40 years (the earliest document dates from A.D. 1830), and there is nothing to show that it was not in his vendor's possession, before the North Konkan was ceded to the British Government.

(2). Whatever rights plaintiff's vendors enjoyed under the former Government he is entitled to now.

(3). What his vendor's rights were under the former Government is not proved by direct evidence, but the presumption is that his vendors were proprietors, owners, landholders, subject only to the duty of the citizens to the State.

(4). The Government of Sátára dynasty was a Government, according to the *shástrás*; the doctrine of the *shástrás* is that the land-holder (*bhumikar*) has the ultimate title in cultivated land, the king having the right of moderate assessment and of escheat in consideration of protection.

(5). Of the exhibits relied upon by the Collector to prove that teak and blackwood trees were held by the former Government as royalties (*vide* para. *supra*) "it does not appear that Nos. 67 and 68 applied to trees on private holdings as well as to the Public Forests; No. 69 clearly applies to the forests only; and Nos. 70-72 appear to refer exclusively to forest timber" and, therefore, the evidence fails to show that the late Government held teak trees on private holdings as royalties.

(6). Colonel Francis has no authority to make the modification he did in Rule 10, Section 3. Bombay Act I of 1865 sanctions only settlements made, approved and confirmed under the authority of the Governor in Council, and not a modification of a rule made without any authority. The Government confirmation of the settlement plus the section of the Bombay Survey and Settlement Act legalises the application of the Joint Rules in their integrity without modification.

24. On a reference to the late Remembrancer, he advised that no special appeal should be brought against Mr. Coghlan's decision. His reason for this advice was that plaintiff's village was never selected for the growth and preservation of teak and that therefore the ground upon which Colonel Francis says he excepted teak and blackwood from Rule 10 altogether fails.

25. The Revenue Commissioner, N. D., however, took a different view, and, impressed by the importance of the case, urged Government to sanction a special appeal. To this Government acceded in their Resolution No. 6123, dated 5th November 1872. Mr. Dhirajlál has filed a special appeal, setting forth the arguments advanced in the Revenue Commissioner's letter to Government, No. 5095-A, dated 29th October 1875.

*Opinion.*

26. In Govind Purushottam's case it was held by the High Court, that where Government land is leased for a thirty years' term to a tenant, the proprietary right to the trees is derived from the property in the soil and vests in the Government. In this case the position of Government towards the plaintiff is different. Government found the plaintiff's vendors in possession of the land at the time the country was acquired by it, and the

proper question for decision is—whether according to the custom prevailing under the late Government and continued under our Government, the plaintiff or Government is entitled to the forest trees growing in his holding? By importing into the consideration of this question any preconceived notion of the respective rights of landlord and tenant, the real issue is likely to be lost sight of. If Government is the proprietor of the land and the plaintiff only a tenant, then undoubtedly the plaintiff is only entitled to what he can prove that his tenancy confers, and all the rest belongs to Government. But all that we can affirm of a *sutidár* like the plaintiff, is that he was in possession of the land when we obtained the country, and that he is entitled to retain possession so long as he pays the assessment fixed upon it. This right has always been characteristic of his tenure, and has not been conferred by our Government. The Revenue Commissioner has stated in his report to Government on the suit, but not, I think, quite correctly—that the *suti* tenure of the Konkan is identical with the *suti* tenure of the Deccan, which is described in Wilson's Glossary (page 95) as "a tenure by which land is held of a proprietor by a tenant paying the full Government assessment." On the other hand Colonel Francis has stated that the *sutidár* stands in the place of the *dhárekari* of the Southern Konkan. The *dhárekari* is described in Wilson's Glossary (page 136) as "a tenant who pays the Government assessment, one who is possessed of fixed rates or fees; the permanent occupant of a farm, one who cannot be dispossessed as long as he pays his revenue and who may abandon his farm for a time without losing the right of resumption on paying a compensation to the temporary occupier."

Permanency is no doubt the distinguishing characteristic of the *sutidár's* tenure as of the *dhárekari's* or *mirásdár's*, and this fact has been recognised by the High Court in Special Appeal No. 642 of 1866 (IV. Bombay High Court Report 125, A. C. J.). But whether the *sutidár* has the property in the soil and is only liable to be assessed to the land revenue as to an Imperial tax or whether the Government is the owner of the soil, and assessment which the *sutidár* pays is the acknowledgment of his tenancy under Government as landlord, is a question upon which it would perhaps be impossible to arrive at a satisfactory decision. The origin of the tenure is untraceable and we can only judge of its nature by the incidents which we find attached to it.

27. Was it or was it not an incident of the *sutidár's* tenure under the late Government, that all forest trees growing in his holding were held to belong to Government? The evidence which has been put in this case shows clearly that at any rate since about the year 1847, all the local revenue officers have held the possession that teak and blackwood in occupied lands are and always have been considered royalties. Mr. Ashburner says in his report on the *suti*—"The fact that teak and blackwood has been reserved is proved not only by distinct evidence of orders issued by the Peishwa to his local officers, but by the general custom of the country, both in the Deccan and the Konkan, Government have in innumerable instances exercised the right of property in teak in occupied fields, and no instance can be quoted in which the occupant has exercised that right without dispute! But the Peishwa's orders to his local officers have not been accepted by the District Judge as proving that teak and blackwood in *suti* holdings were preserved by the Peishwa as royalties; and although there is, perhaps, room for saying that Mr. Coghlan has not made sufficient allowance for the general terms in which those orders are concluded, a careful perusal of them (*vide* para. 7 *supra*) will, I think, justify the conclusion that they alone afford very meagre evidence indeed of so extensive a right as that which is asserted on behalf of Government. Not one of them applies expressly to *suti*-land, and none is explicit enough to enable me to say for certain how far it was intended to be applicable. Of the alleged "general custom" there is no proof whatever on the record of the suit, and not one of the "innumerable instances" in which Government have exercised the right of property in teak, &c., has been adduced in evidence. I am, therefore, of opinion that it has not been proved in this suit, that the right of Government to teak and blackwood in *suti*-land as royalties has any existence.

28. The Collector's order of 1839 referred to above in para. 7 would seem to show that up to that year people used under our Government to cut teak and other trees as they pleased without any restrictions. The proclamation of July 1847 and the Collector's order of the subsequent month (*vide* paras. 8 and 9) indicate the existence at that time of some rules about cutting teak, and these were probably framed in pursuance of the measures which the people were anticipating the institution of in 1839. I have already stated that there is no evidence on the record of the suit to show what these rules were, but all the orders and correspondence which I have seen lead me to the conclusion that the first imposition of restrictions on the cutting of teak, under our Government, was concurrent with, and probably a consequence of, the first steps taken by Dr. Gibson towards the foundation of the Forest Department.

29. The Revenue Commissioner argues that the Survey Act has abolished all distinctions between *sutidárs* and other tenants, and that all are now survey tenants, occupants or *khátedárs*. The Survey Act has undoubtedly legalized the enforcement of one or two new conditions upon the holders of all lands to which a Revenue Survey is extended, but in the matter of trees its policy is (Section 40) to confer all the rights of Government upon the holder, except in respect of such trees as may be specially reserved. This section,

however, clearly operates only to convey something belonging to Government to the tenant, not to confiscate any right of the occupant to Government. If the occupant was entitled to the trees before the Survey Act was passed, or before the Survey settlement was introduced, nothing in that Act appears to me to justify its being held that he is no longer entitled to them, or that Government can reserve any of them to itself.

30. In any case, therefore, it was essential for the Collector to prove that teak and blackwood are royalties, to which a *sutidár* has no claim. This has not, I think, been satisfactorily established, and the ground-work, upon which the claim set up on behalf of Government is based, has thus given way.

31. If the District Judge's ruling, as to the effect of Colonel Francis' modification of Rule 10 of the Survey Rules at the time of the introduction of the Survey into the Nasrápur *táluka*, be correct, Government can no longer claim in that *táluka* ever such rights to trees as it may have passed before the Survey was introduced. For if, as the District Judge says, the Survey Act has legalized the application of the Joint Rules in their integrity without modification, then Government have given up every thing and can no longer claim even teak and blackwood. This point is, therefore, also one of much importance, and it has not, I think, been as carefully elucidated as it should have been. These Joint Rules, as sanctioned in 1847, were intended to apply only to the Deccan and Southern Marátha Country (*vide* para. 14 *supra*). Colonel Francis has stated that Nasrápur was the first *táluka* in the Konkan into which the Survey was introduced, and on introducing it he appears to have exercised his discretion in applying the Deccan Rules. Whether he was justified in doing this on his own responsibility is a question between Government and himself, but unless it can be shown that Government ordered the Deccan Rules to be applied to the Konkan in their integrity, and this has not been shown, it is absurd to agree that the Superintendent of Survey had no power to modify those rules when applying them to the Konkan. The rules, in the shape in which Colonel Francis applied them, are the only rules which have ever been applied to the Nasrápur *táluka* at all, and if the sanction of Government was necessary to their validity and has never been obtained, then the rules have never really been applied at all, and plaintiff cannot claim the benefit of Rule 10.

32. The fact, that a printed copy of the Deccan Rules was circulated in the Konkan without any alteration or modification and with a heading showing them to have been sanctioned by the Governor in Council, is one that although the High Court commented upon it in their judgment when remanding the suit for trial. Colonel Francis says that he issued these rules for use in either 1856, 1857 or 1858 with a heading for the Konkan, but if a search had been made in the records it would probably have been possible to state distinctly when, under what circumstances and to whom they were issued. If they were publicly promulgated as the Survey Rules in force in Konkan, it will be difficult for Government now to contend that they must be understood subject to an unpublished modification of Rule 10, which was only officially communicated to the *mámlatdárs*. The fact that the plaintiff was able to procure a copy of them, and produce them in the High Court, would seem to show that they were published to the world; but it is not clear whether this was so, or whether they were merely circulated officially. If they were distributed only to the local officers for their use they would, of course, have been bound to understand them subject to the modifications conveyed in Colonel Francis' order No. 238, dated 20th July 1856 (*vide supra* para. 9th), and it might have been proved that this was the case, and that it has always been understood that Rule 10 did not apply to teak and blackwood.

33. The legal effect, therefore, of the printed copy of the Deccan Rules issued for use in the Konkan, depends, I think, upon a variety of circumstances, which no attempt has been made in this case to prove, and the validity of the objection raised by the District Judge to Colonel Francis' modification of the Rule 10 also depends upon a fact which is not clearly explained in the evidence, whether or not Government ever directed that the Joint Rules should be made applicable in their integrity to Konkan.

34. The supplemental rule (*vide* para. 15 *supra*), in the spirit of which Colonel Francis has deposed that his modification of Rule 10 was made, certainly was not applicable to plaintiff's village. But both the District Judge and the late Legal Remembrancer have, I think, missed Colonel Francis' meaning. Government had the same object in preserving teak and blackwood in private holdings in Konkan as it had in providing for the trees contemplated by the supplemental rule. As Government had passed the supplemental rule for the preservation of one set of trees and Colonel Francis had reserved the rights of Government over another similar set of trees which were generally understood at the time by Revenue Officers to be royalties, he did not think it necessary to apply for a special sanction for his order modifying Rule 10 as it was in the spirit of Government's own previous order. This, I think, is the meaning of Colonel Francis' words; and the only point for decision really is, as I have already stated, whether Government had previously applied Rule 10 in its integrity to the Konkan, and Colonel Francis' modification of it was, therefore, unauthorized, or whether Colonel Francis was the first to apply any rule at all.

35. Government appears to have been misinformed—as far at any rate as concerns the Karjat *táluka*—when they passed their Resolution No. 2097, dated 27th May 1868,

under the impression that the Joint Survey Rules as to trees had never been made applicable to Konkan, and the Revenue Commissioner Mr. Ellis framed his rules in 1862 under the same misunderstanding. Colonel Francis in his abovementioned order distinctly stated that Rule 11 was to be applicable as it stood, as also was Rule 2 which concerns trees. In Rule 10 alone was any modification ordered. There was nevertheless an impression amongst the local officers that the Joint Survey Rules did not apply in the Konkan as far as regards trees; and as the plaintiff's tree was removed and sold in 1867 before the abovementioned Government Resolution was passed, the course adopted with respect to it was in accordance with the local rules in force at the time. But as the plaintiff's holding contained but this one solitary teak tree it was, as pointed in the Government Resolution, opposed both to the spirit of Mr. Ellis' rules and to the general policy of Government that there should have been any interference with his tree.

36. I am not accurately acquainted with the history of the application of Mr. Ellis' Rules in Konkan, but I believe that some dishonesty was discovered in the proceedings charged with the preparation of the returns of the number of trees in each field, and it seems that the rules had never been entirely carried out.

37. After careful consideration of all the circumstances, I beg to submit my opinion that it would neither be politic nor safe to continue to prosecute this case any further in the High Court. It would not, I think be politic—

(1). Because the course applied with regard to plaintiff's tree was entirely opposed to the general wishes of Government as to the non-interference of Revenue Officers in the enjoyment of trees growing in private holdings.

(2). Because the case places the intention of Government in an entirely false light by making it appear that it is unwilling to let the holder of private lands own even a solitary teak tree, whereas the declared policy of Government is to preserve such trees only where they occur in large numbers in extensive tracts, and to leave the rayats free to dispose, as they like, of all others.

(3). Because an adverse decision is probable, and the result of such decision in the High Court would be to establish a precedent which the Lower Courts would always be loth to depart from hereafter.

It would not, I think, be safe—

(1). Because the District Judge has found as a fact against which there is no appeal, the teak trees growing in *suti* lands are not proved to be royalties.

(2). Because the proof upon this point on the record of the suit is weak and inconclusive.

(3). Because the case has from the commencement not been conducted with that care and research which the importance of the interests at stake demanded, and much valuable evidence that might have been brought forward has probably been outlined.

(4). Because owing to the imperfectness of evidence there is a possibility of its being held that even teak and blackwood were royalties in the Peishwa's time, Government gave up and abandoned its claims thereto at the introduction of Survey.

38. If Government concur in my suggestion that for the above reasons the pending suit should be abandoned, it will then, I submit, be desirable that the existing orders as to teak and blackwood trees in the Konkan should be reconsidered with a view of giving better effect to the policy of conferring the claims of Government to trees growing in large tracts capable of separate demarcation and conservation. This policy was indicated already in the supplemental rule sanctioned by Government in 1851 (*supra* para. 15). It pointed to certain villages and parts of villages being specially selected by the Conservator of Forests, and approved of by Government, for the growth and preservation on behalf of Government. And Dr. Gibson, when writing about the necessity of a rule of this kind in his memo. No. 17 (seventeen), dated 7th January 1851, after stating that in all countries then under native rule as well as in the Deccan and Konkan, before we acquired them "claim was exercised by the Government over all teak and *sisu* wherever growing," goes on to say (para. 9): "the proposed plan is more considerate as it confines to the certain tracts where forests have been." From this it would appear that Dr. Gibson did not at that time contemplate retaining the claims of Government to isolated trees growing in small patches, and that Colonel Francis in reserving the claims of Government upon all teak and blackwood trees wherever growing when introducing the Survey into the Nasrápur *táluka* went further than was contemplated at the time the supplemental rule was framed. Colonel Francis has however explained in a memorandum (No. 1228, dated the third July 1873,) which he wrote on the judgment recorded by the High Court for retrial, that "as the selections of these tracts had been made at the time his order was issued, the supplemental rule was made generally applicable to all teak trees, which have always been held to be royalties pertaining to the State." This explanation which, I think, it is to be regretted was not given by Colonel Francis in his evidence, seems to show that he too contemplated certain tracts being selected for preservation, and the rest of the trees being given up to the holders of the land in which they grew.

*Vide* page 145 of the official correspondence on the system of Revenue Survey and Assessment (edition of 1858).

39. In 1863 a Committee—consisting of Colonel (then Major) Francis, Mr. E. P. Robertson, Acting Collector of Thána, and Mr. Dalzell, the Conservator of Forests—submitted a Joint Report to Government upon the respective right of Government and of private individuals to forests. In the 19th para. of his letter No. 109, dated 15th January 1874, forwarding this Joint Report to Government, the Revenue Commissioner, N.D., Mr. Ellis, referring to his rules of 1863 said: "I am sure it is not wise to reserve any rights over trees even if they be teak and blackwood growing in lands occupied by rayats, and that whenever the trees are sufficiently numerous to make it worth while to preserve them as royalties the land on which they stand should be set aside as a forest reserve." In their Resolution No. 1106, dated 26th March 1864, Government, whilst apparently concurring in these views (*vide* para. 8 of the Resolution), directed that the demarcation of the forest reserves as recommended by the Committee should be proceeded with at once. Dr. Brandis in his report of the June 1870 (No. 208), stated (para 18) that this demarcation had been nearly completed in the Thána Collectorate (except in Dahánu and Máhim), but speaking generally of the Forest revenues he says (para. 12), that a considerable portion of them is at present "derived from the sale of teak grown on rayats' numbers" and alluded to the fact (para. 38) that forest administration in this Presidency comprises "the maintenance and exercise of the Government forest rights in occupied lands and in private estates." The Government Resolution upon this report (No. 3756, dated 6th August 1870), does not in any way refer to the subject of these forest rights in private estates especially, but speaking of demarcation it says:—

"Government have repeatedly admitted that the work of demarcation is of primary importance, and this not more in the interest of the Forest Department than to protect the cultivators from the oppression and hardship they must necessarily be subjected to, if the restrictions essential to Forest Conservancy are not limited to well-defined areas."

40. It is, I think, clear from the two last paragraphs and from various other orders of Government to which reference has been made in the course of this Report:—

(1). That Government wish that forest reserves should be everywhere distinctly demarcated, and this demarcation has in Thána at any rate been nearly completed.

(2). That Government further desires to limit all restrictions to the forest reserves so demarcated.

(3) That as a matter of fact in the Thána Collectorate the said restrictions are not so limited, and that whether owing to the unsuccessful attempt to carry out Mr. Ellis' rules or for what other cause, I cannot say, the Government Forest rights in "rayats' numbers" and "private estates" are still enforced, thereby causing "oppression and hardship" to the rayats.

And it is for this latter reason that, I submit, it is desirable that the existing orders as to teak and blackwood trees in the Konkan should be reconsidered. Government will, I am sure, admit that for the sake of the small value of the trees in lands in which they are not "sufficiently numerous to make it worth while to preserve them as royalties, it is impolitic to incur ill-feeling and discontent which must be engendered by persisting in claiming them as the property of Government.

41 Assuming that under liberal rules any such case as the present, in which a solitary tree in an entire field as in question, will be prevented from arising in the future, and that a very large number of claimants, whose trees are more considerable in number than the present plaintiff's, will also be satisfied, there will still remain several occupants, the trees in whose holding are so numerous as to justify their being converted into forest reserves. With regard to men of this class some issues will arise again as in the present suit. If they have taken up their lands from Government, the ruling Govind Purushottam's case (*supra* para. 25) will apply and there need be no hesitation in asserting the proprietary right of Government to the trees. But if the holders of the lands are *sutidárs*, it will not, I think, be advisable to dispute their claims unless Government are first of all satisfied that the asserted right of royalty can be substantiated by evidence such as a Civil Court would recognize.

42. With a view to the ascertainment of this latter point, I would respectfully suggest that one of the Collector's Assistants be required to collect and arrange all the proofs of the existence of the right and to search the records, English and Vernacular, for orders and letters bearing upon the question. Dr. Gibson in his memorandum No. 17, dated 7th January 1851, to which I have already referred, wrote as follows:—

"8.—The Conservator is prepared to state that in certain trees Government has always maintained a proprietary right both in the Deccan and Konkan. In proof of this he would refer to the clearly expressed opinions of Mr. Pelly, the first Collector of the Konkan, Mr. Dunlop who followed him, Mr. Reid, ditto."

*Vide* page 144 of official correspondence on the system of Revenue Survey and Assessment (edition of 1859).

To the arguments and proofs adduced by Mr. Coles, the present Collector of the Southern Konkan, and to the existing practice in all countries at present or lately under native rule as Sávantvádi, Sátára, &c., as also to the existing practice in all alienated forest villages in British territory, in these countries and villages claim is exercised over all teak and *sisu* wherever growing."

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A perusal of the opinions thus referred to by Dr. Gibson will probably lead to the discovery of much valuable information, and perhaps more evidence may be procured from the Poona *daftar*. It would also be desirable to ascertain what rules were in force under our rule from the time we acquired the district till the year 1847. In considering how far any such rules were applicable to lands held on the *suti* tenure it will be important, however, to bear in mind that the *sutidár* of the Konkan corresponds in many respects to the *mirásdár* of the Deccan, and that it was proved to the satisfaction of the Government so long ago as 1846-47 (*vide supra* para. 12), that no interference had been usual with the trees in *mirás* lands, although nothing was then said, it is true as to teak and blackwood trees.

43. A clear account of the orders given at the time of the introduction of the Survey into each *táluka*, and since if there be any, as to the rights of individual landholders to the trees growing in their lands, is also necessary in order to ascertain how far it can be truly said that Government have abandoned what rights they may at one time have possessed in teak and blackwood trees as royalties.

44. When all the information thus obtainable is placed before Government it will be in a position to decide whether its alleged right to teak and blackwood in *suti* land is sustainable; and should it rule that it is, the Collector will be prepared if a fresh suit is brought in Court, to contest that right, to produce without delay all the available proofs of it.

45. I beg to apologize for the length of this report and must ask to be excused, if I have travelled perhaps somewhat beyond the proper scope of my duty in making suggestions contained in the few last paragraphs. The extreme importance of the subject whether to Government or to the rayats has been my reason for wishing to place the matter fully before Government.

I have the honour to be,
Sir,
Your most obedient Servant,
(Signed) J. R. NAYLOR, C. S.,
On Special Duty.